Ombudsman Manitoba

Eighteenth Annual Report of the

OMBUDSMAN

For the period
January 1st, 1987 -
December 31st, 1987

Presented to the Legislature pursuant
to Section 42 of The Ombudsman Act

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Ombudsman Manitoba

750 — 500 Portage Avenue
Winnipeg, Manitoba R3C 3X1
Telephone: (204) 786-6483

The Honourable Denis Rocan
Speaker of the Legislative Assembly
Province of Manitoba

Dear Mr. Speaker:

In accordance with Section 42 of The Ombudsman Act, I am pleased to submit the eighteenth Annual Report of the Ombudsman for the calendar year January 1, 1987 to December 31, 1987.

Yours very truly,

Gordon S. Earle

GORDON S. EARLE
OMBUDSMAN

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Public Report

A Report of the Ombudsman
under Section 43 of The Ombudsman Act
on the case of
Mr. Aladar Gyorffy
and the
Civil Service Superannuation Board

While The Ombudsman Act places emphasis on secrecy and private investigations, nonetheless the Ombudsman in the public interest, or in the interest of a person, department or agency of the government, may publish reports on any particular case he has investigated. In my 1985 Annual Report I presented a summary of a case involving the Civil Service Superannuation Board. The summary was as follows:

> In April 1985, the complainant filed a complaint with my office against the Civil Service Superannuation Board essentially stating that he felt that the Board's decision not to allow him the opportunity of buying back prior educational leave for pensionable service was unfair.
>
> Essentially, the complainant advised that during the academic years 1960 to 1961 and 1961 to 1962, he was on educational leave studying social work at the University of Manitoba. He alleged that he was assured by the Personnel and Payroll Offices of his Department (then the Department of Health and Welfare) that the contributions towards the pension fund would be regularly made during his educational leave. Reportedly, it was not until January 1981 that he learned, at a pre-retirement seminar, that no superannuation contributions had been paid on his behalf during the second academic year of his educational leave. When he attempted to rectify this situation, offering to buy back the time involved, he was not allowed to do so even though the Civil Service Superannuation Board under Section 5(6) of The Civil Service Superannuation Act has the discretion to extend time limits for such action. The Board first of all suggested that in order for them to make a decision, the complainant needed some proof from his employer indicating that the employer erred in not informing him of the option of contributing to the fund during the period of his educational leaves. The complainant provided such proof in the way of a written statement from his employer and yet the Board did not grant him the option of buying back the service, arguing that "the material at hand did not reflect that the failure to obtain the benefit was **wholly** or **materially** the fault of an error on the part of the employing authority".
>
> My office investigated this complaint and on the basis of the evidence available, including a legal opinion from my solicitor, I was of the opinion that the decision of the Civil Service Superannuation Board, in this case, was wrong. My opinion, my reasons and my formal recommendation were submitted to the Board. My recommendation was that the complainant be allowed to buy back prior educational leave as pensionable service. The Board rejected my recommendation indicating that the Board's decision was made after a review of everything available including a legal opinion from their solicitor. I carefully reviewed the Board's response to my recommendation, as well as the opinion of the Board's solicitor, which seemed to me to lean more in the direction of supporting my opinion that the Board's decision was wrong, than in the direction of supporting the Board. However, whereas the Board was firm in its position, I then reported the matter to Cabinet indicating that in my opinion the Civil Service Superannuation board, in exercising its discretionary power under Section 5(6) of The Civil Service Superannuation Act, applied too strict a test and was wrong in its decision not to allow the complainant the option of buying back pensionable service. I requested that the Lieutenant Governor in Council give my report appropriate consideration with a view toward the implementation of my recommendation that the complainant be allowed to buy back prior educational leave as pensionable service. Cabinet declined my recommendation.
>
> In this particular case, I feel, on the basis of the evidence available, that a grave injustice has taken place, and I shall attempt some further negotiations to see if this matter can be resolved, and if not, then I shall give serious consideration to making a special public report on this case under Section 43 of The Ombudsman Act which is as follows:
>
> > *"Publication of reports.*
> >
> > *43 In the public interest, or in the interest of a person, department or agency of the government, the Ombudsman may publish reports relating generally to the exercise and performance of his functions and duties under this Act or to any particular case investigated by him, whether or not the matters to be dealt with in the report have been the subject of the report made to the assembly under this Act."*

As noted at the end of the above summary, I indicated that I was considering making a special public report on this case. However, before concluding the case in that manner, I decided to do some further work on this case to ensure that every possible attempt had been made to resolve this matter. It had been at the close of 1985 when I presented this case to the Lieutenant Governor in Council and early 1986 when I received Cabinet's decision to decline my recommendation. An attempt was made subsequently to discuss Cabinet's decision with the President of the Executive Council. However, this did not materialize because of the intervening provincial election, and whereas Cabinet had previously expressed its view that the principles of confidentiality and solidarity which govern the operation of the Cabinet made it impossible to convey to me more than the decision reached, I abandoned the idea of pursuing a meeting of the President of the Executive Council to explore this case further. It had been my hope that through such a meeting I would learn of any additional information of which Cabinet may have been aware which would have had a bearing on their decision not to support my recommendation. I felt that before going public, in fairness to all, it would be appropriate for the

Ombudsman, notwithstanding the principles of Cabinet confidentiality and solidarity, to have access to all relevant information on this case.

I subsequently learned that before arriving at its decision, Cabinet had received input from officials of the Civil Service Commission. I then met with the Civil Service Commission to ascertain why and how the Commission would have input to Cabinet on a report by the Ombudsman concerning a case involving the Civil Service Superannuation Board. During that meeting I was apprised of the government's Task Force on Pensions and Group Insurance. Mr. G.W. Irving, Assistant Deputy Minister, Labour Relations Division of the Civil Service Commission, in response to our meetings, provided the following overview of the role of the government's Task Force on Pensions and Group Insurance:

The Task Force is composed of representatives of pension plans funded primarily by the Province. The Task Force is chaired by the Director, Compensation Services and meets on an ad hoc basis.

Since its inception, the primary role of the Task Force has been to serve as the government's consultative body on issues concerning pensions and group insurance. Examples of pension plans the Task Force is involved with are:

— Civil Service Superannuation Plan

— Teachers' Retirement Allowances Fund

— Manitoba Health Organizations Pension

— Pension plans for the three Universities.

The government has frequently called upon the Task Force for its advice and recommendations on policy related issues concerning any one of these plans. The Task Force has also been called upon to provide advice on issues which affect either the costs of or the benefits provided by these plans or on issues which set a significant precedent affecting the plan.

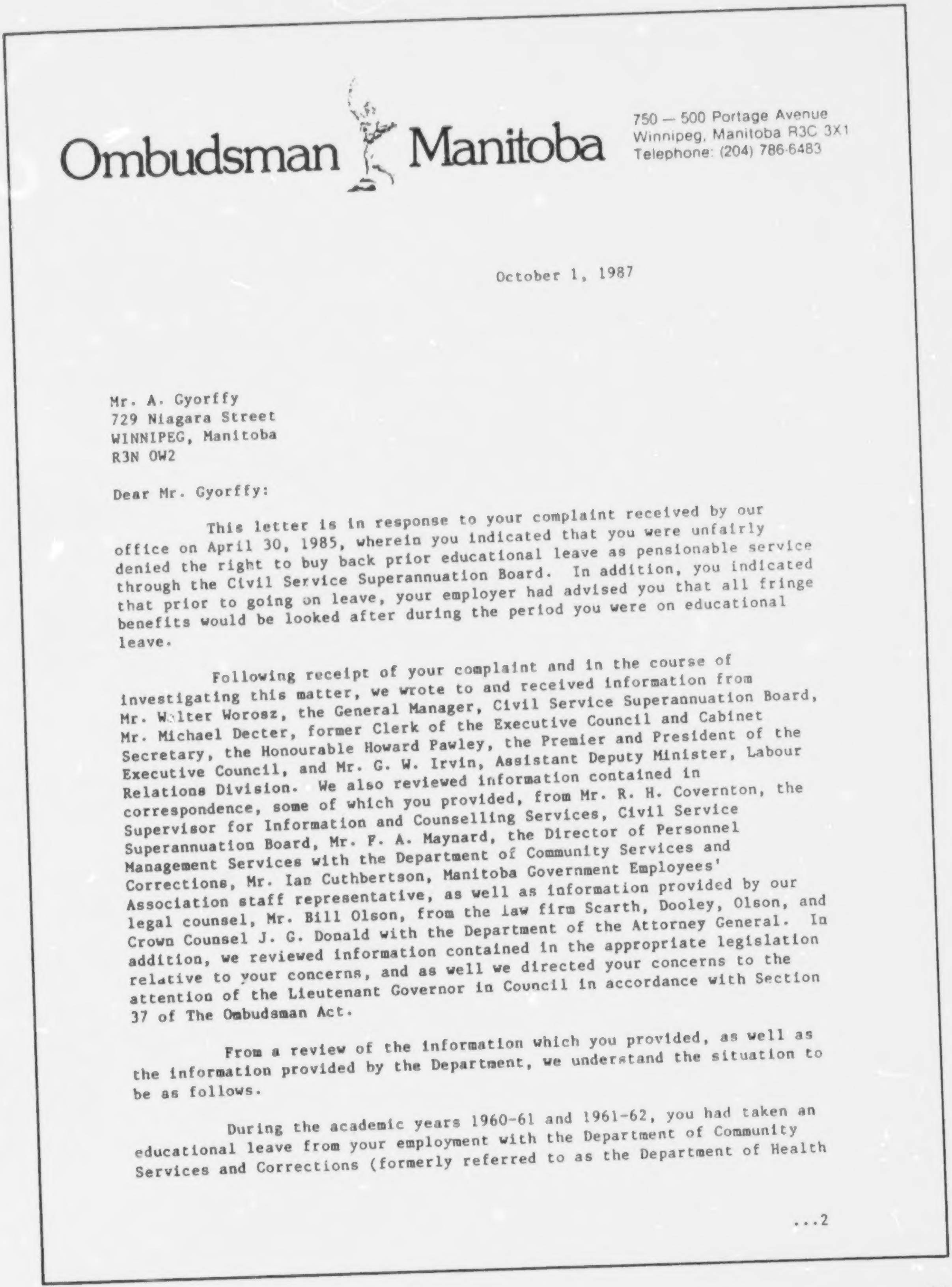
From an administrative perspective, these plans have boards or committees which are responsible for the day-to-day management of the plan itself. In certain instances these administrative bodies are constituted in legislation (eg. Civil Service Superannuation Board and the Teachers' Retirement Allowances Fund) while in other instances they are not (eg. Manitoba Health Organizations and the University plans).

Administrative issues within the plan parameters are normally dealt with by the Board or Committee. These Boards have from time to time also called upon the Task Force for direction on administrative issues which set a significant precedent for the plan.

It would appear that Cabinet, before arriving at its decision regarding my report, had been in consultation with the government's Task Force on Pensions and Group Insurance which presumably had expressed the concern that to accept my recommendation to allow the complainant to buy back the prior educational leave as pensionable service would set a significant precedent for the superannuation plan — especially since the Civil Service Superannuation Board was of the firm opinion that it could not be held totally responsible for the problem because the employee had some responsibility to read and be aware of benefit information which had been distributed.

While the Ombudsman does not deny that the complainant must share some of the responsibility for his predicament, I still feel that the Civil Service Superannuation Board applied too strict a test in determining that the Board had to be "wholly" and "totally" responsible before it could effect a resolution to the problem. I feel that the Board has the discretionary power under Section 5(6) of The Civil Service Superannuation Act to resolve the problem, and that the Board, in denying the complainant the opportunity to buy back pensionable service, used its discretionary power to arrive at a harsh and oppressive decision, not necessarily because of any lack of compassion, but apparently because of a fear of setting a precedent.

After the consultation with the Civil Service Commission, after a lengthy and intense review of this case within my office, and after consultation with the complainant, I have decided to make this case public through the write up in this Annual Report. As part of this report I have included the concluding letter I wrote to the complainant, Mr. Aladar Gyorffy, and his response to me. Also included is the report which I presented to the Lieutenant Governor in Council under Section 37(2) of The Ombudsman Act.



Ombudsman Manitoba

750 — 500 Portage Avenue
Winnipeg, Manitoba R3C 3X1
Telephone: (204) 786-6483

October 1, 1987

Mr. A. Gyorffy
729 Niagara Street
WINNIPEG, Manitoba
R3N 0W2

Dear Mr. Gyorffy:

This letter is in response to your complaint received by our office on April 30, 1985, wherein you indicated that you were unfairly denied the right to buy back prior educational leave as pensionable service through the Civil Service Superannuation Board. In addition, you indicated that prior to going on leave, your employer had advised you that all fringe benefits would be looked after during the period you were on educational leave.

Following receipt of your complaint and in the course of investigating this matter, we wrote to and received information from Mr. Walter Worosz, the General Manager, Civil Service Superannuation Board, Mr. Michael Decter, former Clerk of the Executive Council and Cabinet Secretary, the Honourable Howard Pawley, the Premier and President of the Executive Council, and Mr. G. W. Irvin, Assistant Deputy Minister, Labour Relations Division. We also reviewed information contained in correspondence, some of which you provided, from Mr. R. H. Covernton, the Supervisor for Information and Counselling Services, Civil Service Superannuation Board, Mr. F. A. Maynard, the Director of Personnel Management Services with the Department of Community Services and Corrections, Mr. Ian Cuthbertson, Manitoba Government Employees' Association staff representative, as well as information provided by our legal counsel, Mr. Bill Olson, from the law firm Scarth, Dooley, Olson, and Crown Counsel J. G. Donald with the Department of the Attorney General. In addition, we reviewed information contained in the appropriate legislation relative to your concerns, and as well we directed your concerns to the attention of the Lieutenant Governor in Council in accordance with Section 37 of The Ombudsman Act.

From a review of the information which you provided, as well as the information provided by the Department, we understand the situation to be as follows.

During the academic years 1960-61 and 1961-62, you had taken an educational leave from your employment with the Department of Community Services and Corrections (formerly referred to as the Department of Health

...2

and Welfare) for the purpose of pursuing the course of studies in social work at the University of Manitoba. You indicated that at that time you were assured by the Personnel and Payroll Officers of your Department that your contributions towards the pension fund would be made regularly during your educational leave.

We understand, based on your information, that it was not until 1981 when you were made aware during a pre-retirement seminar that no superannuation contributions had been paid on your behalf during the second academic year of your educational leave. You advised that, on being aware of this situation, you applied to the Superannuation Board to buy back the right to make contributions for the year in which no superannuation contributions were made on your behalf. We understand that this application was made by virtue of Section 5(6) of The Civil Service Superannuation Act which reads as follows:

> "Power of the board to extend time limits.
> 5(6) Where any person fails to meet any time limit set out in this Act for doing any act or thing required to be done under this Act to obtain a benefit under this Act, and the board is satisfied that the failure is due wholly or in a material way to any act, omission, or failure of the employer or employing authority of the person, or of an employee of the board, the board may extend the time for doing the act or thing."

In response to your application and in a letter dated February 9, 1981 from Mr. R. H. Covernton, the following observation was made:

> "I would suggest that unless you can obtain some evidence from your employer indicating that your failure to obtain this benefit was due wholly or in a material way to an act, omission, or failure on their part that there is little evidence on which the Board could base their decision."

We understand that in response to Mr. Covernton's letter, you obtained information from Mr. Frank Maynard, Director of Personnel Management Services with the Department of Community Services and Corrections, in which he made the following statement:

> "This will serve to confirm that after careful review of all documentation in the above referenced employee's file, the Department is of the opinion that an error was made insofar that Mr. Gyorffy was not formally advised of the option of contributing to the Fund during the period of his educational leaves in 1960 and 1961."

...3

This information was provided to the Board along with your request for consideration relative to the buy back of your educational leave for the year 1961. We understand that this request was denied as the Board was not satisfied that the employer was wholly or in a material way totally responsible for the failure to provide superannuation contributions for the year 1961. It is for this reason that you contacted our office indicating your dissatisfaction with the position adopted by the Board.

In the course of investigating this matter, I wrote to Mr. Walter Worosz, General Manager of the Civil Service Superannuation Board, and requested information clarifying the position taken by the Superannuation Board relative to the concerns which you had expressed. In response, I received information which advised that your concerns were reviewed by the Board on two separate occasions and based on the information reviewed, it was felt that there was not sufficient evidence to support that the employer was wholly or in a material way responsible. The Board was also of the opinion that there was some responsibility on your part to keep informed on benefits and also to ensure that your benefits were in fact protected during your period of absentia.

On receipt of Mr. Worosz' reply, I was not satisfied with the reasons given. It was my belief that the Superannuation Board should have reviewed the matter to determine whether the failure of your employer to advise you of your rights was in fact a failure which wholly or in a material way resulted in your failure to meet the time limit. It was my opinion that the Board did not do this.

In addition, on the two occasions when the Board addressed the issue of granting an extension of time, it had applied the test of your employer's failure to be either wholly accountable for the failure to meet the time limit or in a material way totally accountable. It was my belief that Section 5(6) of the Act does not require the employer to be totally responsible in a material way but, rather, the employer can be partly responsible as long as that portion of responsibility had a material effect on the failure to meet the time limit. The Board's position was that the employer has to be both materially and totally responsible, an opinion which I believe to be incorrect. I further felt that based on the evidence before the Board, in particular the letter received from Mr. Maynard confirming that you were not advised of your option of contributing to the fund during the period of your educational leave, could be concluded that the employer was partially responsible.

With these thoughts in mind, I submitted my recommendation to the General Manager for the Civil Service Superannuation Board indicating that the decision not to grant you your request was wrong and I recommended you be allowed to buy back prior educational leave as pensionable service.

...4

In responding to my recommendation, Mr. Worosz indicated that the matter was reviewed by their legal counsel, Mr. J. Donald of the Attorney General's Department, who provided a legal opinion on the matter. This opinion, along with all other relevant information, was submitted again to the Civil Service Superannuation Board and based on a further review, I was advised that the Board again denied the request to buy back prior educational leave.

I carefully reviewed the Board's response to my recommendation and maintained that the Board's position was wrong. From the information which I reviewed, it would appear that the Board's decision was based on a negative finding when reviewing the question of whether the employer was wholly or in a material way responsible. As a result, with reference to the relevant sections of The Ombudsman Act, I referred the matter to the Lieutenant Governor in Council for further review as it was my belief that the Board, in exercising its discretionary powers set forth under Section 5(6) of The Civil Service Superannuation Act, applied too strict a test and was wrong in its decision not to allow you the option to buy back pensionable service.

I was advised, by letter from the Cabinet Secretary and Clerk of the Executive Council, that the matter was reviewed by Cabinet and my recommendation was declined. No reasons were given for the declining of my recommendation and in support of this position the principles of confidentiality and solidarity which govern the operation of Cabinet, were cited.

In conclusion, having reviewed this situation and while I believe that there is a certain onus and responsibility on your part to ensure that information relative to your benefits is secured, I feel that an injustice has been committed by the inflexible approach taken by the Civil Service Superannuation Board. I feel, as indicated above, that the Civil Service Superannuation Board applied too strict a test and was wrong in its decision not to allow you the option of buying back pensionable service. My feelings on this matter are supported by opinions provided by my own legal counsel and, in my view, also by the remarks of the counsel representing the Civil Service Superannuation Board. However, having utilized the powers entrusted to me by virtue of the relevant sections of The Ombudsman Act, I have fulfilled my obligation by firstly reporting to the Lieutenant Governor in Council and secondly in my 1985 annual report (see attached) and essentially there is nothing more that my office can do for you on this matter except of course, to make a public report on your complaint under Section 43 of The Ombudsman Act. In determining whether to utilize the media and make a public report the Ombudsman must determine whether the publication of such a report is in the public interest, or in the interest of a person, department or agency of the government. In this case I would be considering primarily whether it would be in your interest

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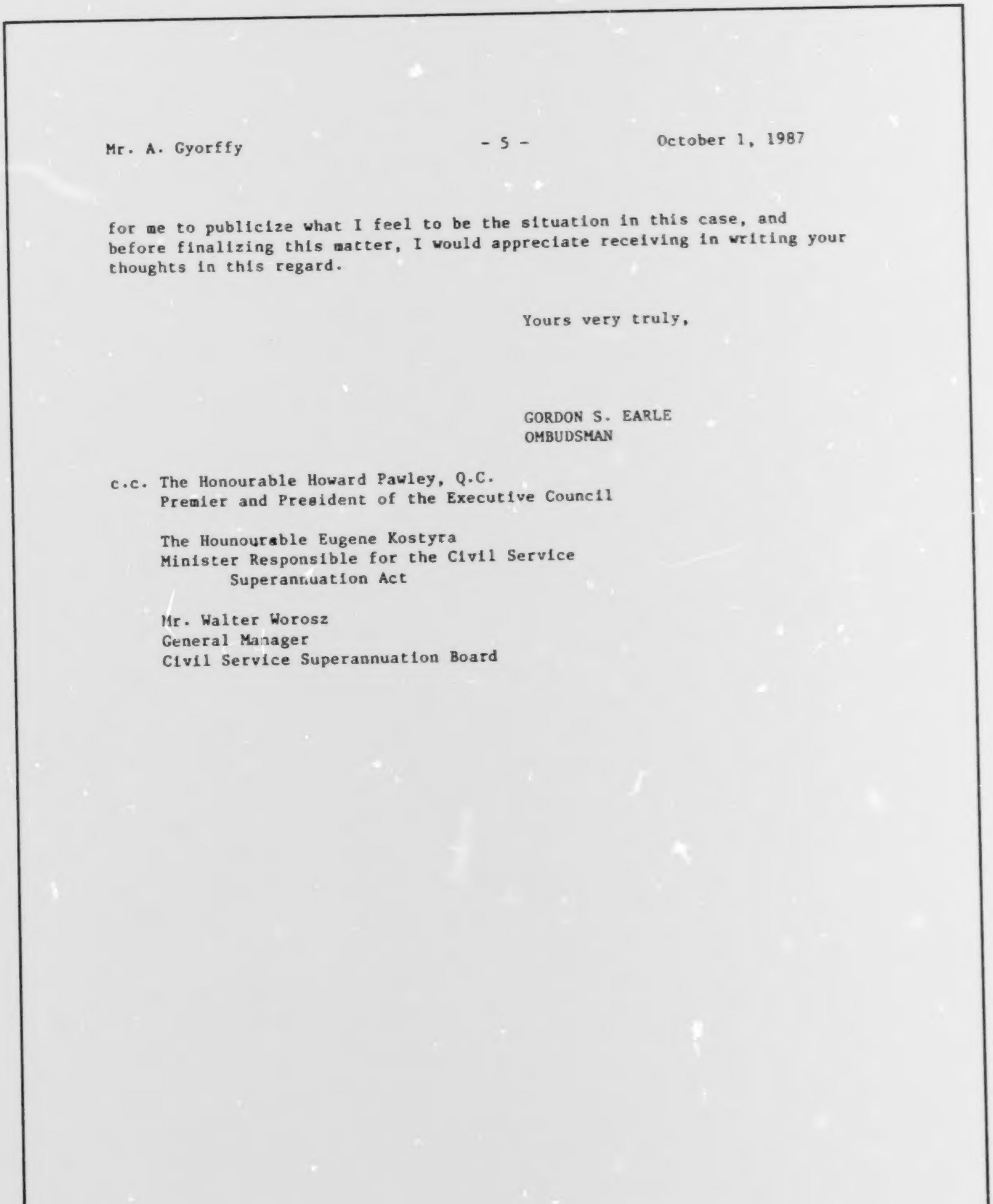


for me to publicize what I feel to be the situation in this case, and before finalizing this matter, I would appreciate receiving in writing your thoughts in this regard.

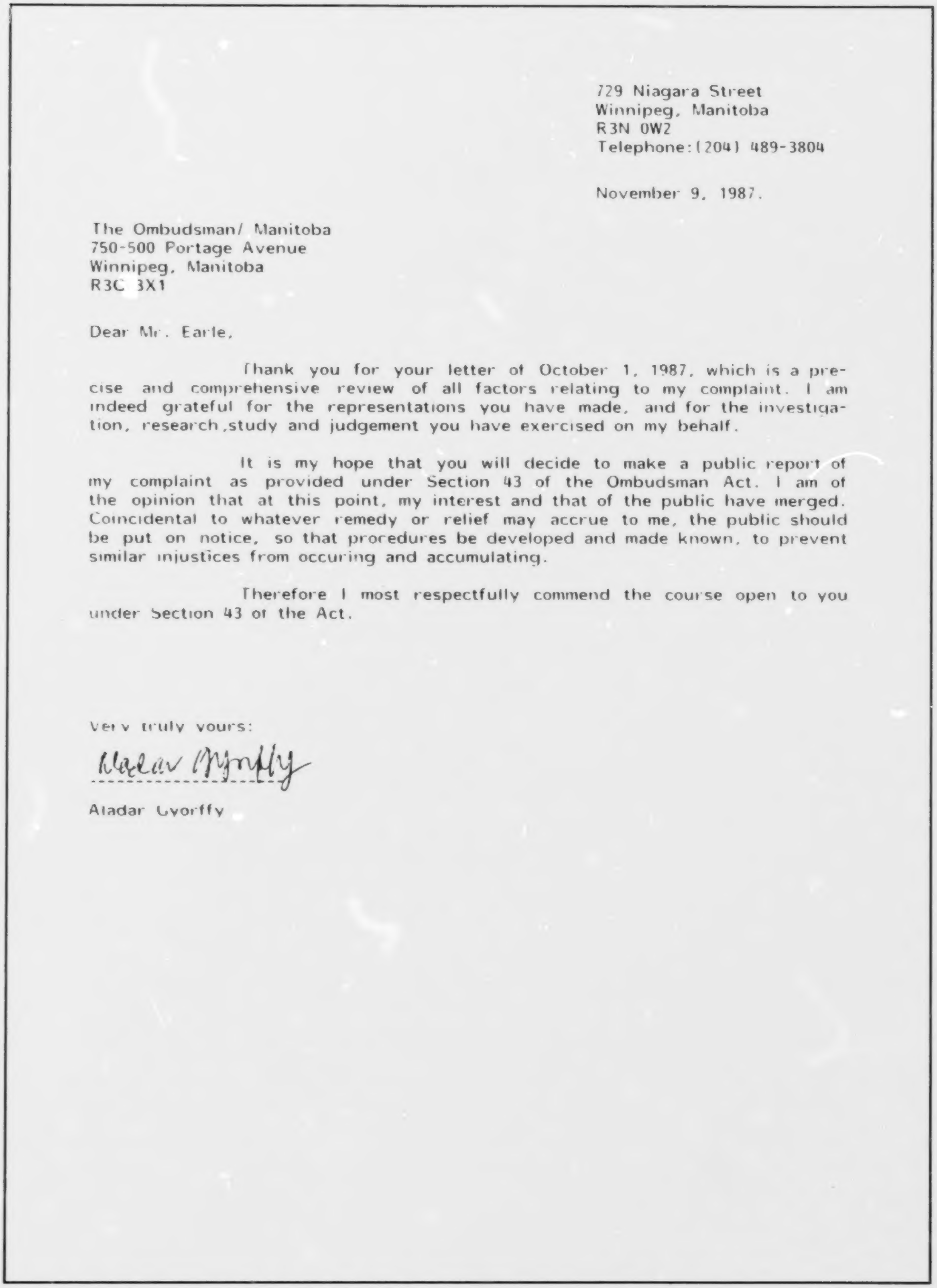
Yours very truly,

GORDON S. EARLE
OMBUDSMAN

c.c. The Honourable Howard Pawley, Q.C.
Premier and President of the Executive Council

The Hounourable Eugene Kostyra
Minister Responsible for the Civil Service
Superannuation Act

Mr. Walter Worosz
General Manager
Civil Service Superannuation Board



729 Niagara Street
Winnipeg, Manitoba
R3N 0W2
Telephone:(204) 489-3804

November 9, 1987.

The Ombudsman/ Manitoba
750-500 Portage Avenue
Winnipeg, Manitoba
R3C 3X1

Dear Mr. Earle,

Thank you for your letter of October 1, 1987, which is a precise and comprehensive review of all factors relating to my complaint. I am indeed grateful for the representations you have made, and for the investigation, research,study and judgement you have exercised on my behalf.

It is my hope that you will decide to make a public report of my complaint as provided under Section 43 of the Ombudsman Act. I am of the opinion that at this point, my interest and that of the public have merged. Coincidental to whatever remedy or relief may accrue to me, the public should be put on notice, so that procedures be developed and made known, to prevent similar injustices from occuring and accumulating.

Therefore I most respectfully commend the course open to you under Section 43 of the Act.

Very truly yours:

Aladar Gyorffy

Aladar Gyorffy

Report of the Ombudsman to the
Lieutenant Governor in Council
under Section 37(2) of The Ombudsman Act

re

Complaint of Mr. A. Gyorffy
and the
Civil Service Superannuation Board

Gordon S. Earle
Ombudsman

December, 1985

In April, 1985, Mr. A. Gyorffy filed a complaint with my office against the Civil Service Superannuation Board essentially stating that he felt that that Board's decision not to allow him the opportunity of buying back prior educational leave for pensionable service was unfair.

Essentially, Mr. Gyorffy advised that during the academic years 1960 to 1961 and 1961 to 1962, he was on educational leave studying social work at the University of Manitoba. He alleges that he was assured by the Personnel and Payroll Offices of his Department (then the Department of Health and Welfare) that the contributions towards the pension fund would be regularly made during his educational leave. According to Mr. Gyorffy, it was not until January, 1981 that he learned, at a pre-retirement seminar, that no superannuation contributions had been paid on his behalf during the second academic year of his educational leave. When he attempted to rectify this situation, offering to buy back the time involved, he was not allowed to do so even though the Civil Service Superannuation Board under Section 5(6) of The Civil Service Superannuation Act has the discretion to extend time limits for such action (see Appendix J). The Board first of all suggested that in order for them to make a decision, Mr. Gyorffy needed some proof from his employer indicating that the employer erred in not informing Mr. Gyorffy of the option of contributing to the fund during the period of his educational leaves. Mr. Gyorffy provided such proof in the way of a written statement from his employer (Appendixes A, B and C) and yet the Board did not grant him the option of buying back the service, arguing that "the material at hand did not reflect that the failure to obtain the benefit was wholly or materially the fault of an error on the part of the employing authority."

My office investigated this complaint and on the basis of the evidence available, including a legal opinion from my solicitor (Appendix D), I am of the opinion that the decision of the Civil Service Superannuation Board, in this case, is wrong. My opinion, my reasons and my formal recommendation were submitted to the Board by letter dated September 5, 1985 (Appendix E). The Board's interim response was on September 10, 1985 (Appendix F) and final response on October 3, 1985 (Appendix G). On December 10, 1985, I checked by telephone with the General Manager of the Civil Service Superannuation Board to see if any other reasons for refusal had been presented at the Board's September 26, 1985 meeting over and above those conveyed in the correspondence to date. The General Manager indicated that there were not and that the Board's decision was made after a review of everything available including a legal opinion from their own solicitor (Appendix H).

I have carefully reviewed the Board's response to my recommendation, as well as the opinion of the Board's solicitor, which I suggest strongly supports my opinion that the Board's decision was wrong (see 2nd last paragraph on page 3 of Appendix H). The Board's solicitor points out that the application of Section 5(6) of The Civil Service Superannuation Act involves a two step process and he concludes that "The Ombudsman would appear to be on reasonably firm ground in concluding that the board's decision was wrong provided the board's decision was based upon a negative finding under what I have referred to as Step One." From the information we have reviewed, it would appear that the Board's decision was based on a negative finding under what the Board's solicitor has referred to as Step One. Note the letter of February 9, 1981 to Mr. Gyorffy from R. H. Covernton, Supervisor, Information and Counselling Services, Civil Service Superannuation Board (Appendix I--Emphasis in that letter added). Please note also the letter of May 13, 1985 from the General Manager of the Civil Service Superannuation Board to my Assistant (Appendix K) which dwells at considerable length on the question of whether the employer was "wholly or in a material way" responsible, further supporting that the Board's decision was based upon a negative finding under Step One.

In conclusion, I maintain that the Civil Service Superannuation Board, in exercising its discretionary power under Section 5(6) of The Civil Service Superannuation

Act, applied too strict a test and was wrong in its decision not to allow Mr. Gyorffy the option of buying back pensionable service. Having attempted to rectify the matter by way of a formal recommendation under Section 36(1) of The Ombudsman Act and having had that recommendation refused, I am now formally reporting to the Lieutenant Governor in Council under Section 37(2) of The Ombudsman Act.

I respectfully request that the Lieutenant Governor in Council give my report appropriate consideration with a view toward the implementation of my recommendation, namely:

> "that Mr. Gyorffy be allowed to buy back prior educational leave as pensionable service."

Respectfully submitted,

GORDON S. EARLE
OMBUDSMAN

Appendix A

Province of Manitoba

inter-departmental memo

To A. Gyorffy

Winnipeg Region

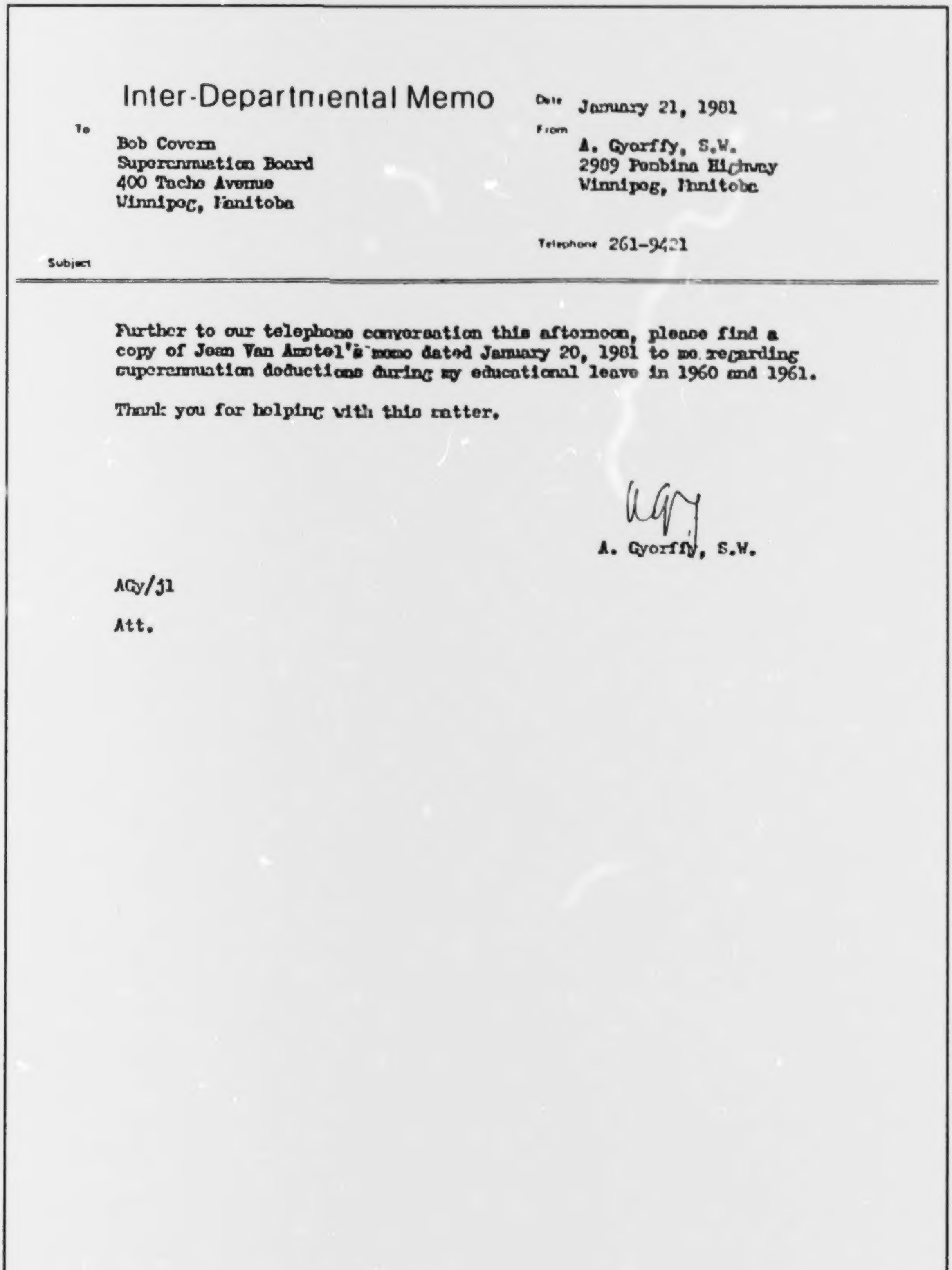
Date January 20, 1981

From Jean van'Amstel
Coordinator
Persónnel/Payroll Services

Subject:

Further to our phone conversation of yesterday, this is to inform you that there is no evidence in your personal file informing you that you had the option to pay Superannuation deductions during your educational leave for the years 1960 and 1961.

Appendix B



Inter-Departmental Memo

Date January 21, 1981

To

Bob Covern
Superannuation Board
400 Tache Avenue
Winnipeg, Manitoba

From

A. Gyorffy, S.W.
2989 Pembina Highway
Winnipeg, Manitoba

Telephone 261-9421

Subject

Further to our telephone conversation this afternoon, please find a copy of Jean Van Amstel's memo dated January 20, 1981 to me regarding superannuation deductions during my educational leave in 1960 and 1961.

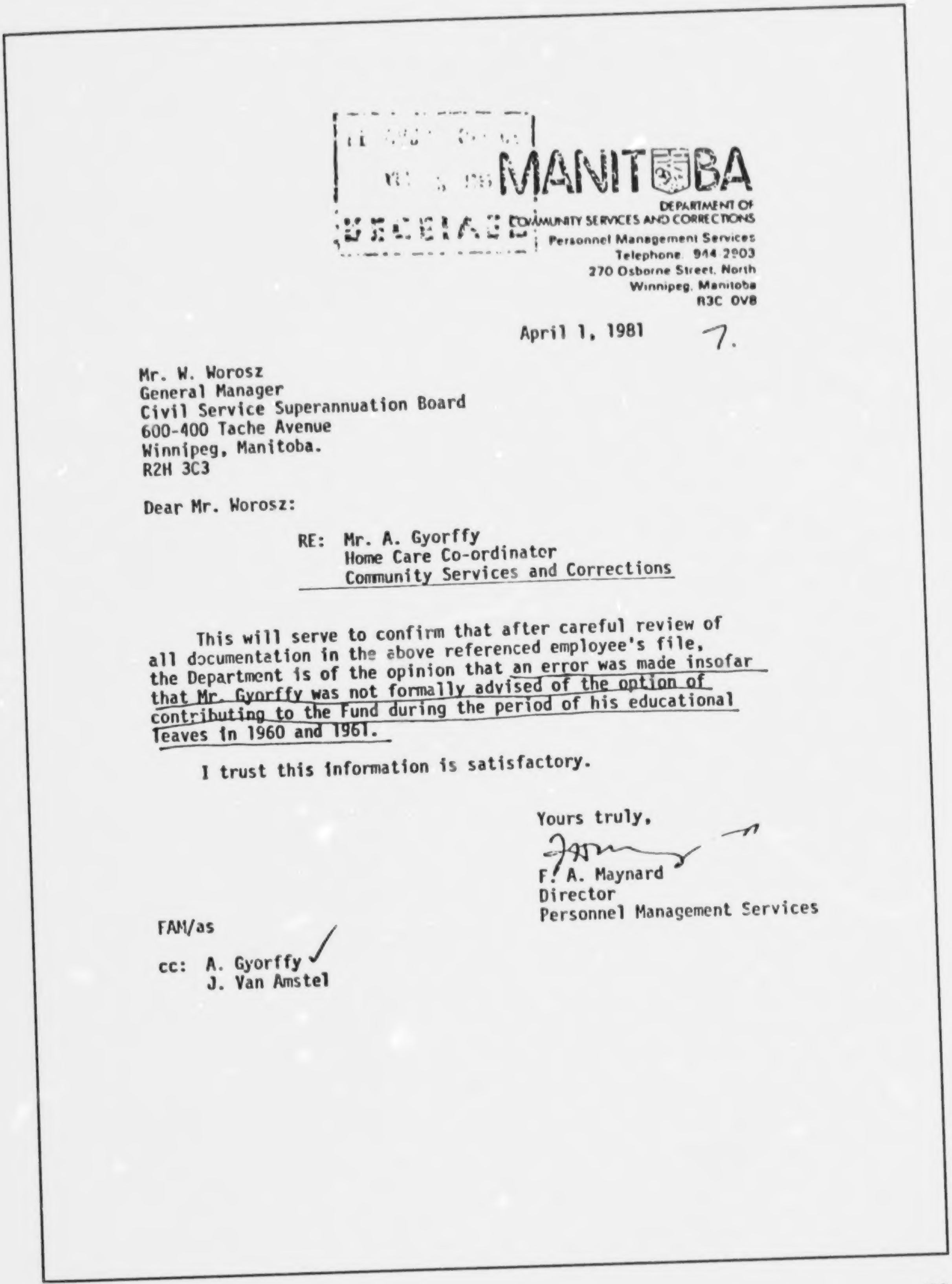
Thank you for helping with this matter.

A. Gyorffy, S.W.

AGy/jl

Att.

Appendix C



RECEIVED

MANITOBA
DEPARTMENT OF
COMMUNITY SERVICES AND CORRECTIONS
Personnel Management Services
Telephone 944 2903
270 Osborne Street, North
Winnipeg, Manitoba
R3C 0V8

April 1, 1981 7.

Mr. W. Worosz
General Manager
Civil Service Superannuation Board
600-400 Tache Avenue
Winnipeg, Manitoba.
R2H 3C3

Dear Mr. Worosz:

RE: Mr. A. Gyorffy
Home Care Co-ordinator
Community Services and Corrections

This will serve to confirm that after careful review of all documentation in the above referenced employee's file, the Department is of the opinion that an error was made insofar that Mr. Gyorffy was not formally advised of the option of contributing to the Fund during the period of his educational leaves in 1960 and 1961.

I trust this information is satisfactory.

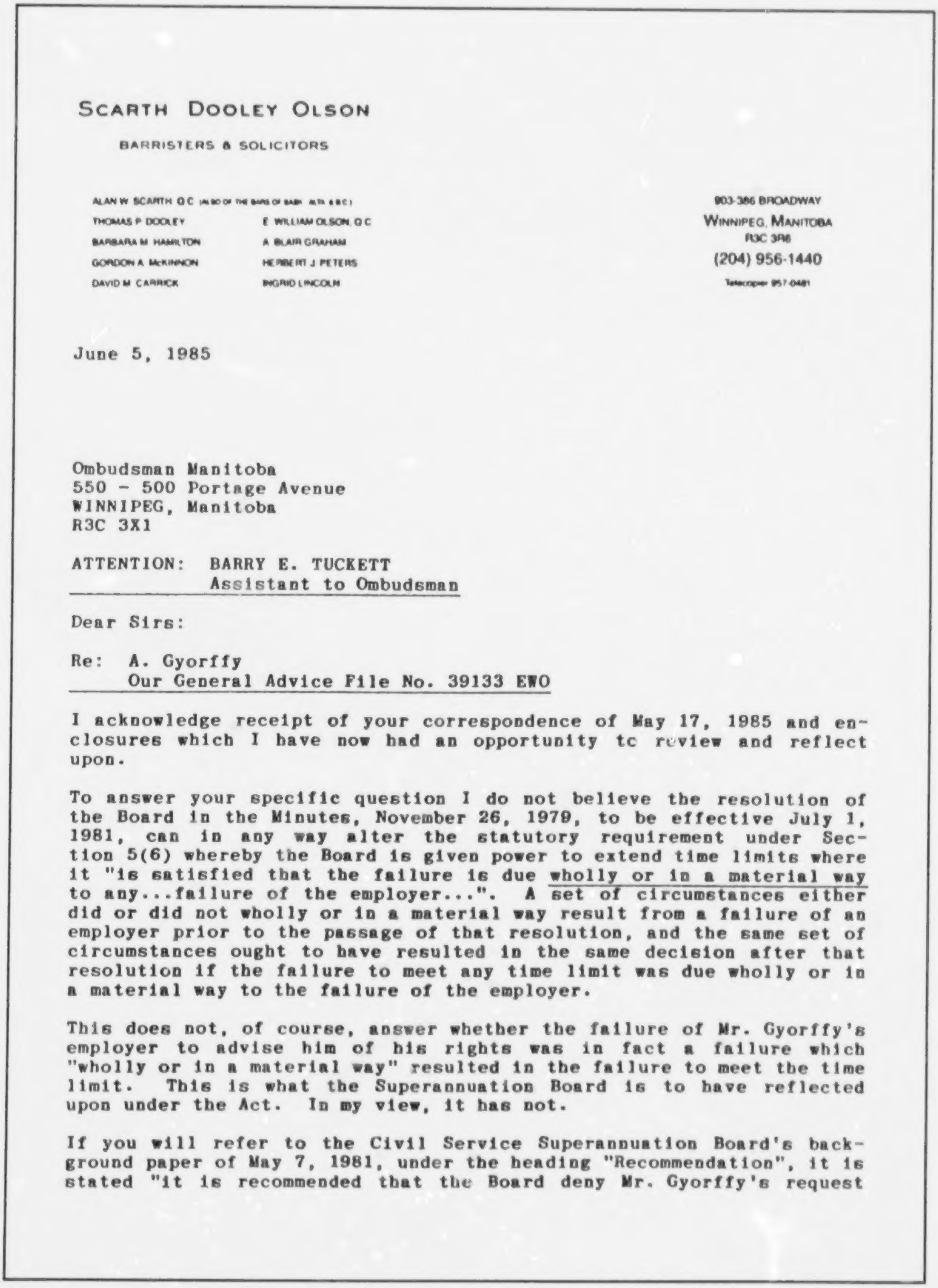
Yours truly,

F. A. Maynard
Director
Personnel Management Services

FAM/as

cc: A. Gyorffy ✓
J. Van Amstel

Appendix D



SCARTH DOOLEY OLSON

BARRISTERS & SOLICITORS

ALAN W. SCARTH Q.C. (ALSO OF THE BARS OF SASK. ALTA. & B.C.)
THOMAS P. DOOLEY
BARBARA M. HAMILTON
GORDON A. McKINNON
DAVID M. CARRICK
E. WILLIAM OLSON, Q.C.
A. BLAIR GRAHAM
HERBERT J. PETERS
INGRID LINCOLN

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June 5, 1985

Ombudsman Manitoba
550 - 500 Portage Avenue
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R3C 3X1

ATTENTION: BARRY E. TUCKETT
Assistant to Ombudsman

Dear Sirs:

Re: A. Gyorffy
Our General Advice File No. 39133 EWO

I acknowledge receipt of your correspondence of May 17, 1985 and enclosures which I have now had an opportunity to review and reflect upon.

To answer your specific question I do not believe the resolution of the Board in the Minutes, November 26, 1979, to be effective July 1, 1981, can in any way alter the statutory requirement under Section 5(6) whereby the Board is given power to extend time limits where it "is satisfied that the failure is due wholly or in a material way to any...failure of the employer...". A set of circumstances either did or did not wholly or in a material way result from a failure of an employer prior to the passage of that resolution, and the same set of circumstances ought to have resulted in the same decision after that resolution if the failure to meet any time limit was due wholly or in a material way to the failure of the employer.

This does not, of course, answer whether the failure of Mr. Gyorffy's employer to advise him of his rights was in fact a failure which "wholly or in a material way" resulted in the failure to meet the time limit. This is what the Superannuation Board is to have reflected upon under the Act. In my view, it has not.

If you will refer to the Civil Service Superannuation Board's background paper of May 7, 1981, under the heading "Recommendation", it is stated "it is recommended that the Board deny Mr. Gyorffy's request

Appendix D

Ombudsman Manitoba
Page 2, File No. 39133 EWO
June 5, 1985

because the employer wasn't wholly or in a material way totally responsible...".

Again, in the Board's correspondence under Mr. Worosz's signature, dated May 12, 1981 to Mr. Gyorffy, he indicates the denial of the initial request was on the basis "that the Board was not satisfied that the employer was wholly or in a material way totally responsible...".

Once again, after Mr. Gyorffy had resubmitted his request with additional facts, the Board's letter of March 22, 1982, again under Mr. Worosz's signature, refers to the Board having denied the request once again because "it was not satisfied that the employer was wholly or in a material way totally responsible...".

Accordingly, on the two occasions when the Board has addressed its mind to granting an extension of time, it has applied the test of Mr. Gyorffy's employer's failure having to be either wholly accountable for the failure to meet the time limit, or in a material way totally accountable. The word "totally" is not in the Act, and in my view it is very arguable that the Board has applied too strict a test on the second arm of the section in the Act. The test is either wholly responsible or in a material way responsible; in the second aspect it can be partially responsible only, so long as that partial responsibility had a material effect on the failure to meet the time limit. The Board has said it has to be both material and totally responsible, and in my view that is incorrect.

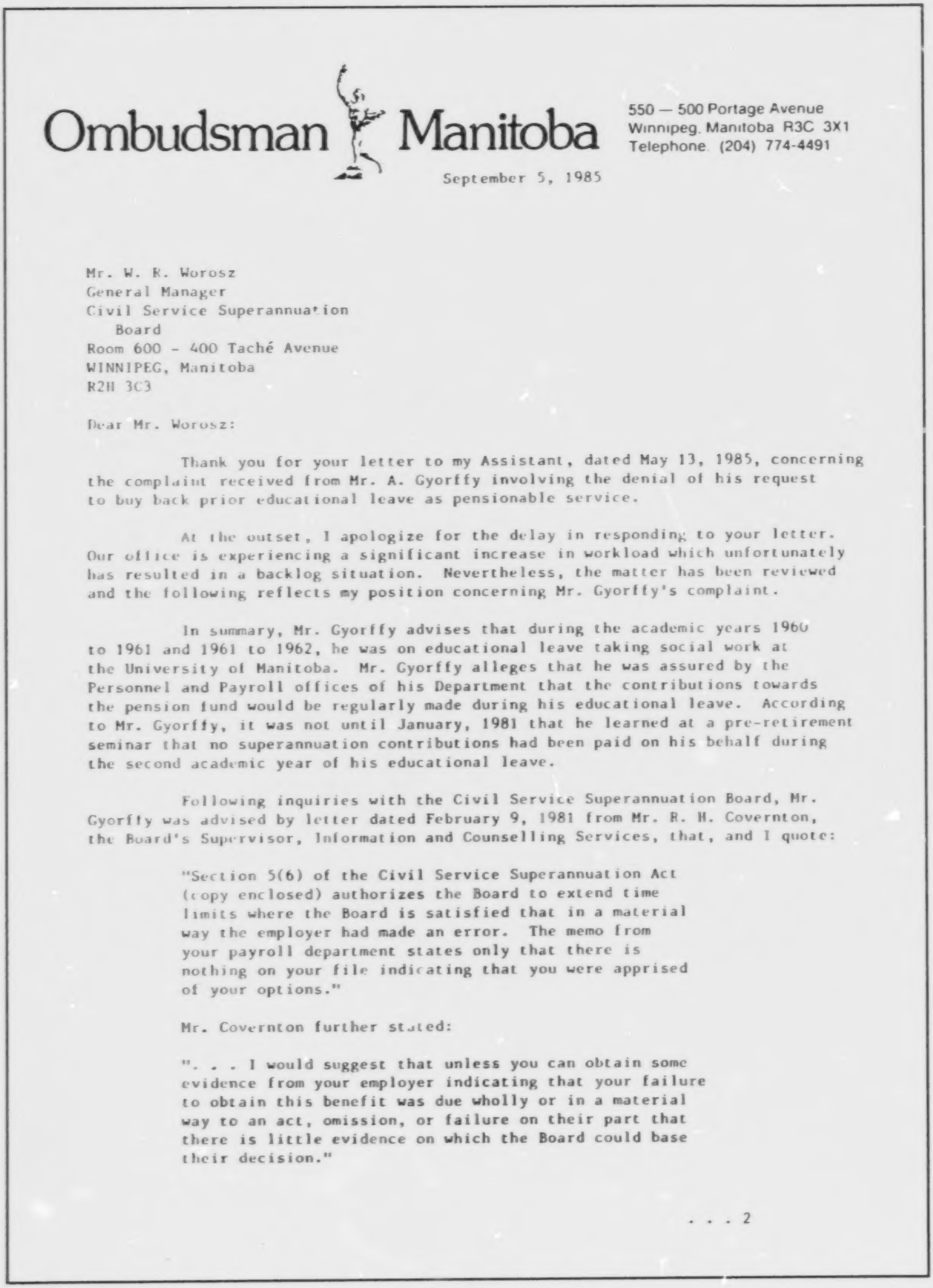
I trust this of some assistance to you in resolving the complaint.

Yours truly
SCARTH DOOLEY OLSON
PER:

E. W. OLSON

EWO:hvk

Appendix E



Ombudsman Manitoba
550 — 500 Portage Avenue
Winnipeg, Manitoba R3C 3X1
Telephone (204) 774-4491

September 5, 1985

Mr. W. R. Worosz
General Manager
Civil Service Superannuation
Board
Room 600 - 400 Taché Avenue
WINNIPEG, Manitoba
R2H 3C3

Dear Mr. Worosz:

Thank you for your letter to my Assistant, dated May 13, 1985, concerning the complaint received from Mr. A. Gyorffy involving the denial of his request to buy back prior educational leave as pensionable service.

At the outset, I apologize for the delay in responding to your letter. Our office is experiencing a significant increase in workload which unfortunately has resulted in a backlog situation. Nevertheless, the matter has been reviewed and the following reflects my position concerning Mr. Gyorffy's complaint.

In summary, Mr. Gyorffy advises that during the academic years 1960 to 1961 and 1961 to 1962, he was on educational leave taking social work at the University of Manitoba. Mr. Gyorffy alleges that he was assured by the Personnel and Payroll offices of his Department that the contributions towards the pension fund would be regularly made during his educational leave. According to Mr. Gyorffy, it was not until January, 1981 that he learned at a pre-retirement seminar that no superannuation contributions had been paid on his behalf during the second academic year of his educational leave.

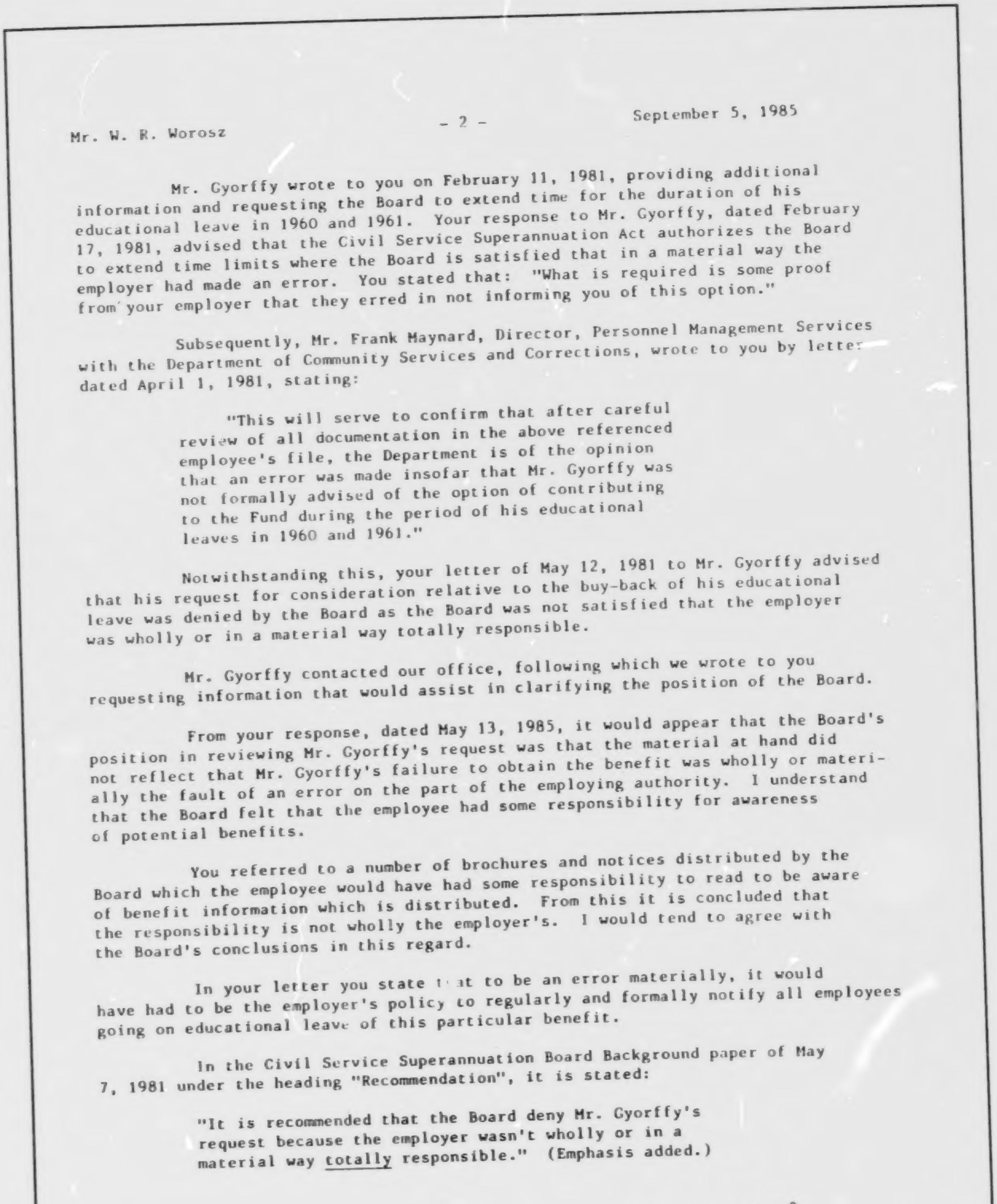
Following inquiries with the Civil Service Superannuation Board, Mr. Gyorffy was advised by letter dated February 9, 1981 from Mr. R. H. Covernton, the Board's Supervisor, Information and Counselling Services, that, and I quote:

> "Section 5(6) of the Civil Service Superannuation Act (copy enclosed) authorizes the Board to extend time limits where the Board is satisfied that in a material way the employer had made an error. The memo from your payroll department states only that there is nothing on your file indicating that you were apprised of your options."

Mr. Covernton further stated:

> ". . . I would suggest that unless you can obtain some evidence from your employer indicating that your failure to obtain this benefit was due wholly or in a material way to an act, omission, or failure on their part that there is little evidence on which the Board could base their decision."

. . . 2



Mr. W. R. Worosz - 2 - September 5, 1985

Mr. Gyorffy wrote to you on February 11, 1981, providing additional information and requesting the Board to extend time for the duration of his educational leave in 1960 and 1961. Your response to Mr. Gyorffy, dated February 17, 1981, advised that the Civil Service Superannuation Act authorizes the Board to extend time limits where the Board is satisfied that in a material way the employer had made an error. You stated that: "What is required is some proof from your employer that they erred in not informing you of this option."

Subsequently, Mr. Frank Maynard, Director, Personnel Management Services with the Department of Community Services and Corrections, wrote to you by letter dated April 1, 1981, stating:

> "This will serve to confirm that after careful review of all documentation in the above referenced employee's file, the Department is of the opinion that an error was made insofar that Mr. Gyorffy was not formally advised of the option of contributing to the Fund during the period of his educational leaves in 1960 and 1961."

Notwithstanding this, your letter of May 12, 1981 to Mr. Gyorffy advised that his request for consideration relative to the buy-back of his educational leave was denied by the Board as the Board was not satisfied that the employer was wholly or in a material way totally responsible.

Mr. Gyorffy contacted our office, following which we wrote to you requesting information that would assist in clarifying the position of the Board.

From your response, dated May 13, 1985, it would appear that the Board's position in reviewing Mr. Gyorffy's request was that the material at hand did not reflect that Mr. Gyorffy's failure to obtain the benefit was wholly or materially the fault of an error on the part of the employing authority. I understand that the Board felt that the employee had some responsibility for awareness of potential benefits.

You referred to a number of brochures and notices distributed by the Board which the employee would have had some responsibility to read to be aware of benefit information which is distributed. From this it is concluded that the responsibility is not wholly the employer's. I would tend to agree with the Board's conclusions in this regard.

In your letter you state that to be an error materially, it would have had to be the employer's policy to regularly and formally notify all employees going on educational leave of this particular benefit.

In the Civil Service Superannuation Board Background paper of May 7, 1981 under the heading "Recommendation", it is stated:

> "It is recommended that the Board deny Mr. Gyorffy's request because the employer wasn't wholly or in a material way totally responsible." (Emphasis added.)

. . . 3

Appendix E

Mr. W. R. Worosz - 3 - September 5, 1985

In addition, your letter to Mr. Gyorffy, dated March 22, 1982, refers to the Board having denied the request once again because "it was not satisfied that the employer was wholly or in a material way totally responsible." (Emphasis added.)

Section 5(6) of the Civil Service Superannuation Act, however, states:

> "Power of board to extend time limits.
>
> 5(6) Where any person fails to meet any time limit set out in this Act for doing any act or thing required to be done under this Act to obtain a benefit under this Act, and the board is satisfied that the failure is due wholly or in a material way to any act, omission, or failure of the employer or employing authority of the person, or of an employee of the board, the board may extend the time for doing the act or thing."
> (Emphasis added.)

It would appear that the Superannuation Board should have reviewed this matter to determine whether the failure of Mr. Gyorffy's employer to advise him of his rights was in fact a failure which wholly or in a material way resulted in the failure to meet the time limit. In my opinion, the Board has not done this.

On the two occasions when the Board addressed its mind to granting an extension of time, it has applied the test of Mr. Gyorffy's employer's failure to be either wholly accountable for the failure to meet the time limit or in a material way totally accountable. Section 5(6) of the Act does not require the employer to be totally responsible in a material way but, rather, the employer can be partially responsible as long as that partial responsibility had a material affect on the failure to meet the time limit. The Board's position that the employer has to be both materially and totally responsible, in my opinion, is incorrect.

I feel that, based on the evidence before the Board and, in particular, the letter received from Mr. F. Maynard dated April 1, 1981, it could be concluded that the employer was partially responsible in this matter. Accordingly, I believe that the evidence would support the Board's position if it had extended the time limit to Mr. Gyorffy to buy back his educational leave in accordance with Section 5(6) of the Act.

I note that the Resolution of the Board in the minutes of November 26, 1979, effective July 1, 1981, stated:

> "The Board approved the Committee's (Messrs. Archer, Tallin and Worosz) recommendation that effective July 1, 1981 the Board shall not accept any request for additional pensionable service entitlements because an employee was unaware of his or her rights or wasn't notified. Subsequent to July 1, 1981, only reinstatements or purchase of prior service, etc., as authorized under the Act shall be allowed. The Board agreed to enclose a notice with the 1980 benefit statements outlining Board

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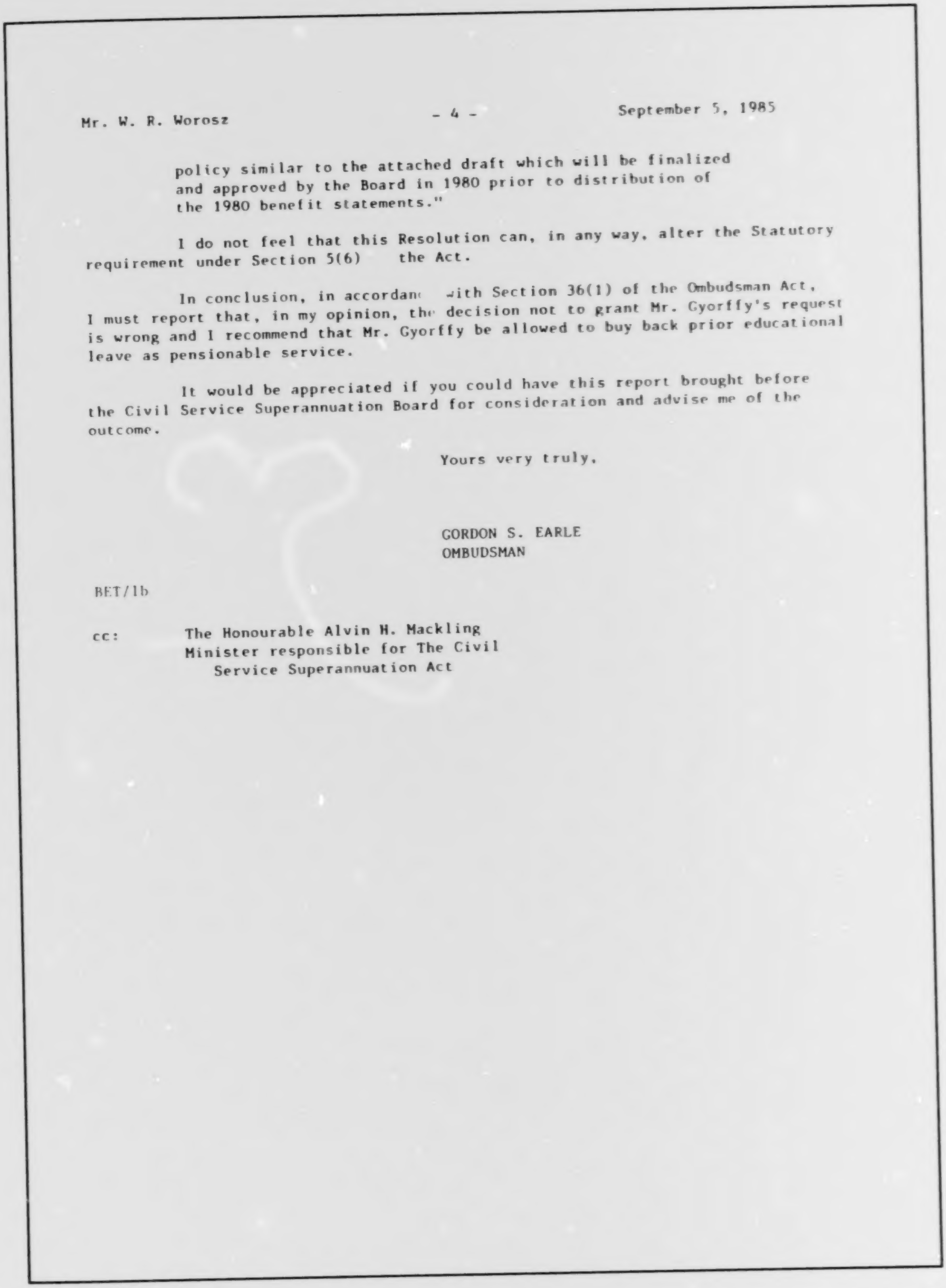


Mr. W. R. Worosz - 4 - September 5, 1985

> policy similar to the attached draft which will be finalized
> and approved by the Board in 1980 prior to distribution of
> the 1980 benefit statements."

I do not feel that this Resolution can, in any way, alter the Statutory requirement under Section 5(6) the Act.

In conclusion, in accordance with Section 36(1) of the Ombudsman Act, I must report that, in my opinion, the decision not to grant Mr. Gyorffy's request is wrong and I recommend that Mr. Gyorffy be allowed to buy back prior educational leave as pensionable service.

It would be appreciated if you could have this report brought before the Civil Service Superannuation Board for consideration and advise me of the outcome.

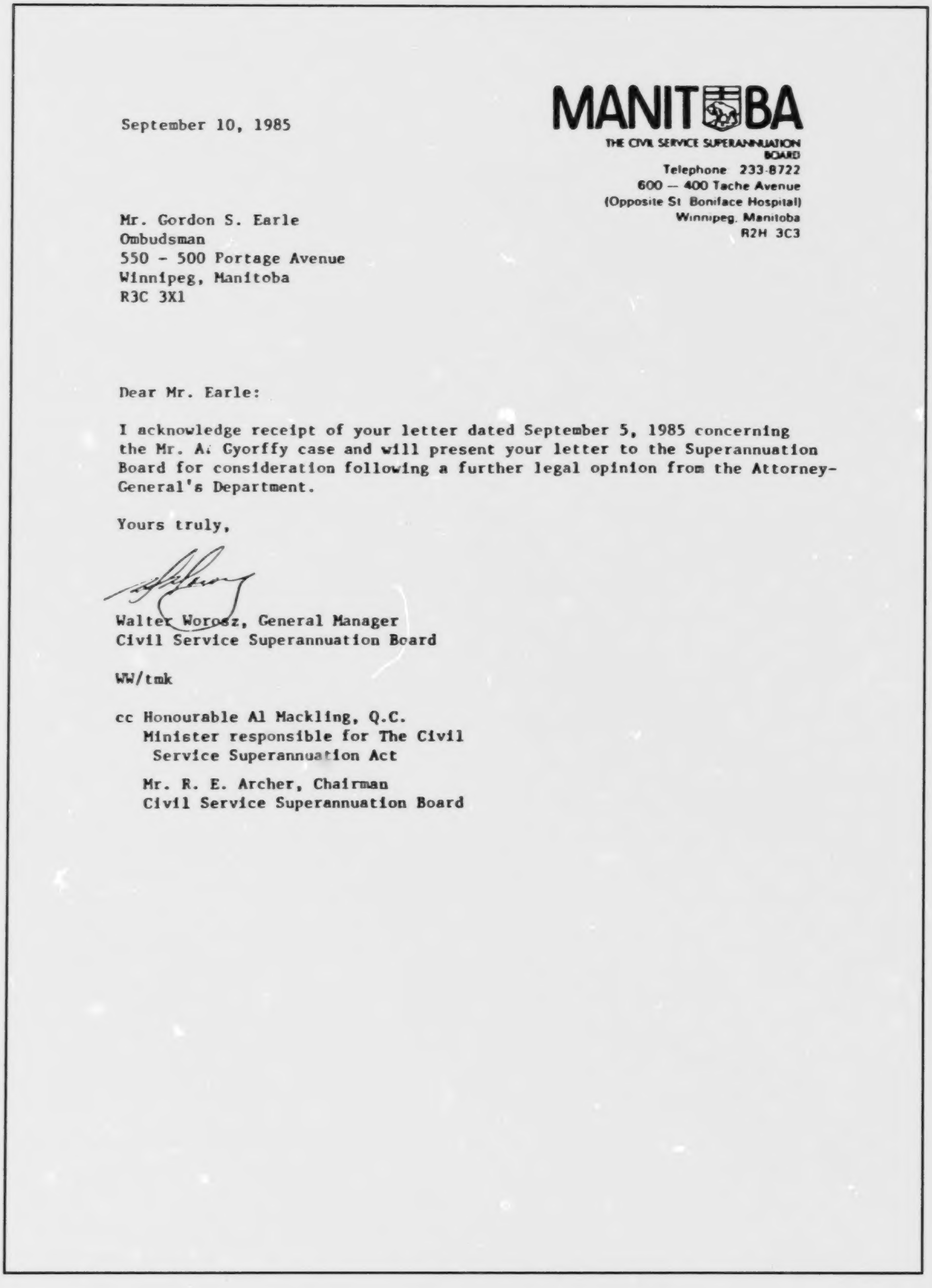
Yours very truly,

GORDON S. EARLE
OMBUDSMAN

BET/lb

cc: The Honourable Alvin H. Mackling
Minister responsible for The Civil
Service Superannuation Act

Appendix F



MANITOBA
THE CIVIL SERVICE SUPERANNUATION BOARD
Telephone 233-8722
600 — 400 Tache Avenue
(Opposite St Boniface Hospital)
Winnipeg, Manitoba
R2H 3C3

September 10, 1985

Mr. Gordon S. Earle
Ombudsman
550 - 500 Portage Avenue
Winnipeg, Manitoba
R3C 3X1

Dear Mr. Earle:

I acknowledge receipt of your letter dated September 5, 1985 concerning the Mr. A. Gyorffy case and will present your letter to the Superannuation Board for consideration following a further legal opinion from the Attorney-General's Department.

Yours truly,

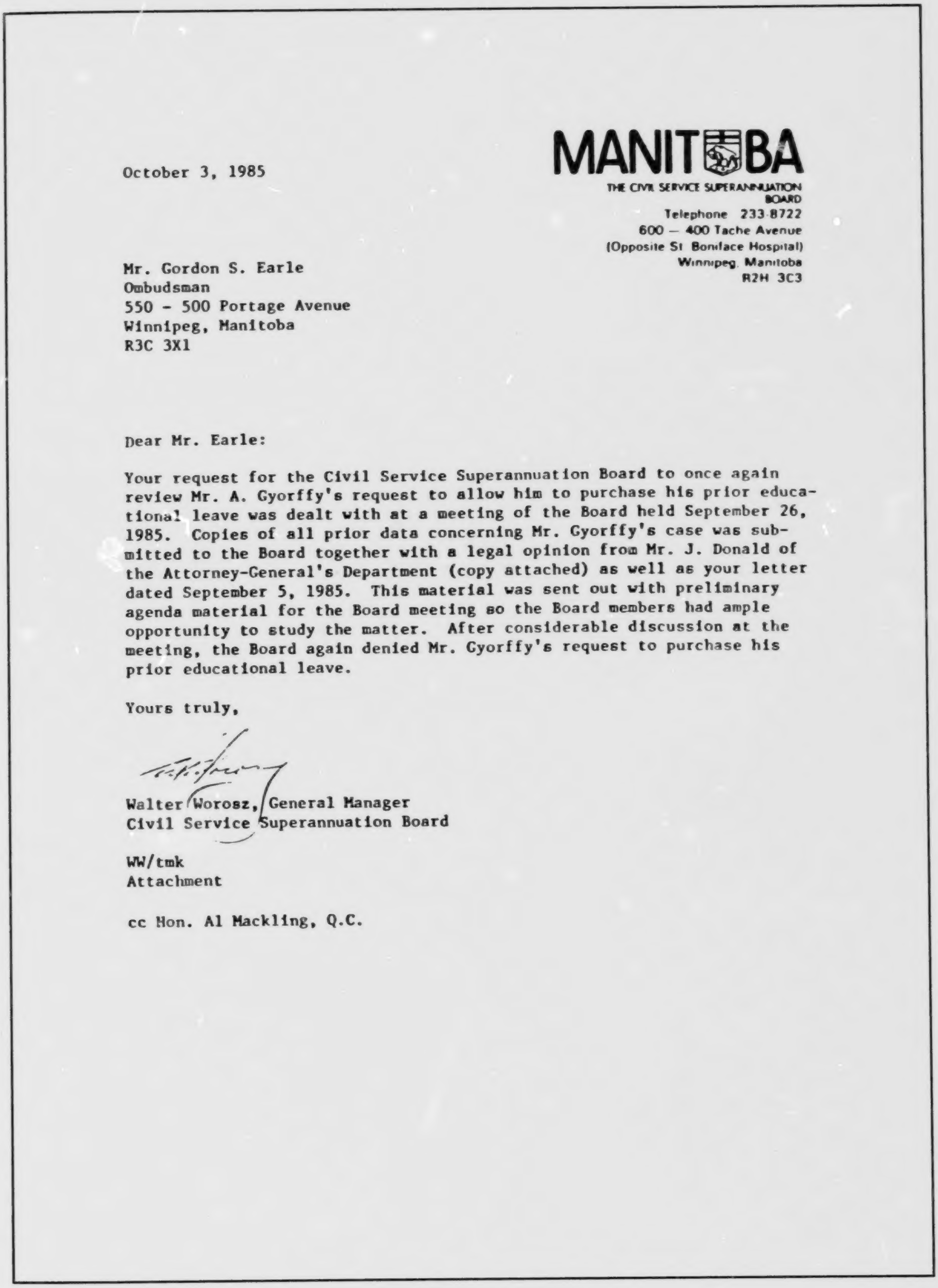
Walter Worosz, General Manager
Civil Service Superannuation Board

WW/tmk

cc Honourable Al Mackling, Q.C.
Minister responsible for The Civil Service Superannuation Act

Mr. R. E. Archer, Chairman
Civil Service Superannuation Board

Appendix G



MANITOBA
THE CIVIL SERVICE SUPERANNUATION BOARD
Telephone 233-8722
600 — 400 Tache Avenue
(Opposite St. Boniface Hospital)
Winnipeg, Manitoba
R2H 3C3

October 3, 1985

Mr. Gordon S. Earle
Ombudsman
550 - 500 Portage Avenue
Winnipeg, Manitoba
R3C 3X1

Dear Mr. Earle:

Your request for the Civil Service Superannuation Board to once again review Mr. A. Gyorffy's request to allow him to purchase his prior educational leave was dealt with at a meeting of the Board held September 26, 1985. Copies of all prior data concerning Mr. Gyorffy's case was submitted to the Board together with a legal opinion from Mr. J. Donald of the Attorney-General's Department (copy attached) as well as your letter dated September 5, 1985. This material was sent out with preliminary agenda material for the Board meeting so the Board members had ample opportunity to study the matter. After considerable discussion at the meeting, the Board again denied Mr. Gyorffy's request to purchase his prior educational leave.

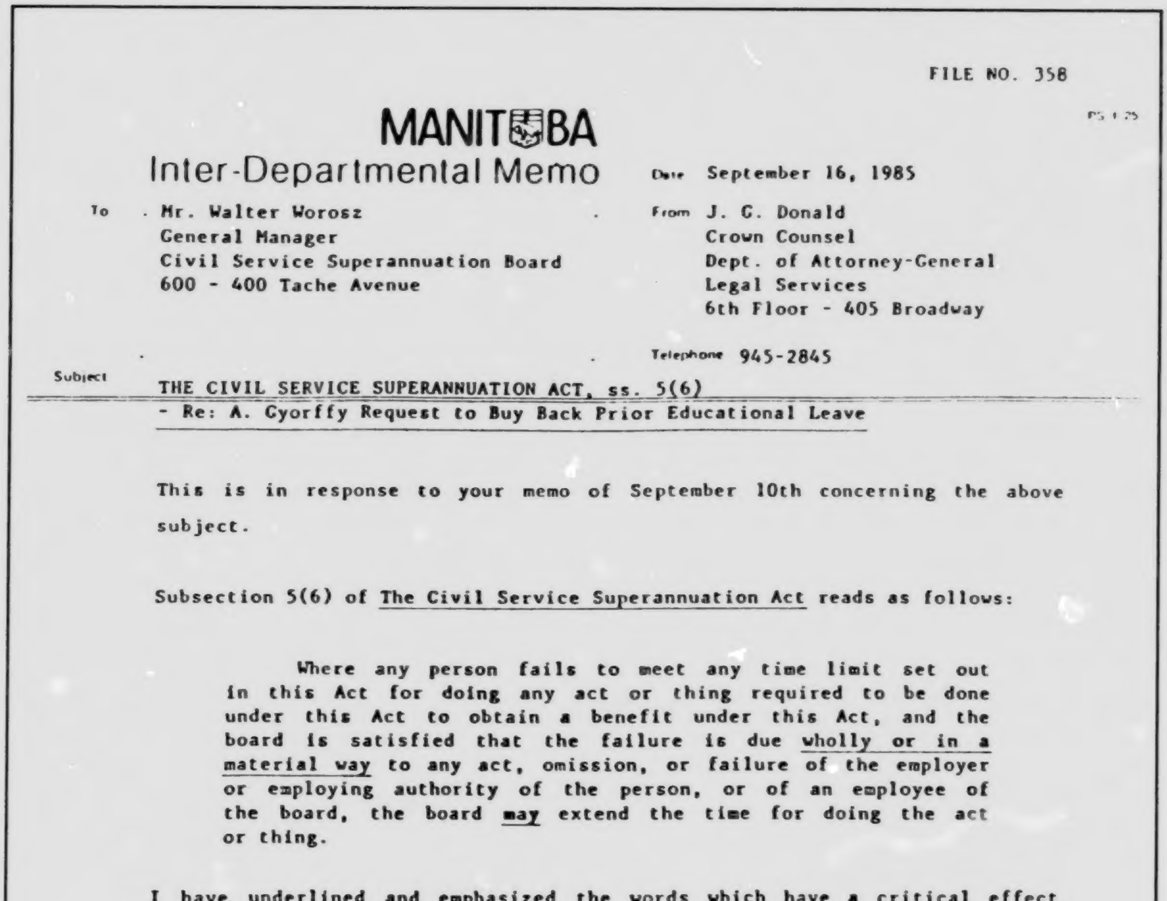
Yours truly,

Walter Worosz, General Manager
Civil Service Superannuation Board

WW/tmk
Attachment

cc Hon. Al Mackling, Q.C.

Appendix H



FILE NO. 358

MANITOBA
Inter-Departmental Memo

Date September 16, 1985

To Mr. Walter Worosz
General Manager
Civil Service Superannuation Board
600 - 400 Tache Avenue

From J. G. Donald
Crown Counsel
Dept. of Attorney-General
Legal Services
6th Floor - 405 Broadway

Telephone 945-2845

Subject THE CIVIL SERVICE SUPERANNUATION ACT, ss. 5(6)
- Re: A. Gyorffy Request to Buy Back Prior Educational Leave

This is in response to your memo of September 10th concerning the above subject.

Subsection 5(6) of *The Civil Service Superannuation Act* reads as follows:

> Where any person fails to meet any time limit set out in this Act for doing any act or thing required to be done under this Act to obtain a benefit under this Act, and the board is satisfied that the failure is due *wholly or in a material way* to any act, omission, or failure of the employer or employing authority of the person, or of an employee of the board, the board ***may*** extend the time for doing the act or thing.

I have underlined and emphasized the words which have a critical effect upon the interpretation of this provision.

Subsection 5(6) gives the board the power, where a person fails to meet a time limit set out in *The Civil Service Superannuation Act*, to extend the time limit. However, this power may be exercised by the board only if certain conditions have been met. The conditions which must be met are:

1. The board must be satisfied that the failure to meet the time limit is due *wholly* to an act, omission or failure of the employer etc.;

OR

2. The board must be satisfied that the failure is due *in a material way* to an act, omission or failure of the employer etc.

In the context of subsection 5(6), the word "or" emphasized in the above quotation should be interpreted as meaning that the fulfilment of *either*

.../2

of these conditions gives the board the power to extend the time limit.

The first condition seems fairly clear; the failure must be due wholly, totally or entirely to the act, omission or failure of the employer etc. The second condition requires that the board be satisfied that the failure is due in a material way to the act, omission or failure of the employer etc. In the absence of a statutory definition, the word "material" should be given its ordinary everyday meaning. Based on Webster's New World Dictionary (College Edition) it is my opinion that "important", "substantial" or "considerable" would be synonymous with the word "material" in this context.

I wish to re-emphasize, if the board is satisfied that either one of the foregoing two conditions has been met, the board has the power to extend the time limit. If neither condition has been met the board does not have any power to deal with extension of the time limit.

If the board is satisfied that either condition 1 or condition 2, or both, have been satisfied it must then address the question as to whether or not the time limit should be extended. The use of the word "may" as emphasized in the above quotation means that the board has a discretion as to whether or not the time limit should be extended. The board must not exercise this discretion arbitrarily. The board's decision must be based on relevant considerations and its policy, if any. If the board has adopted a policy with respect to the exercise of its discretion, that policy should be exercised fairly and consistently in every case. This discretion should be exercised independently of and subsequent to consideration of the two conditions referred to above.

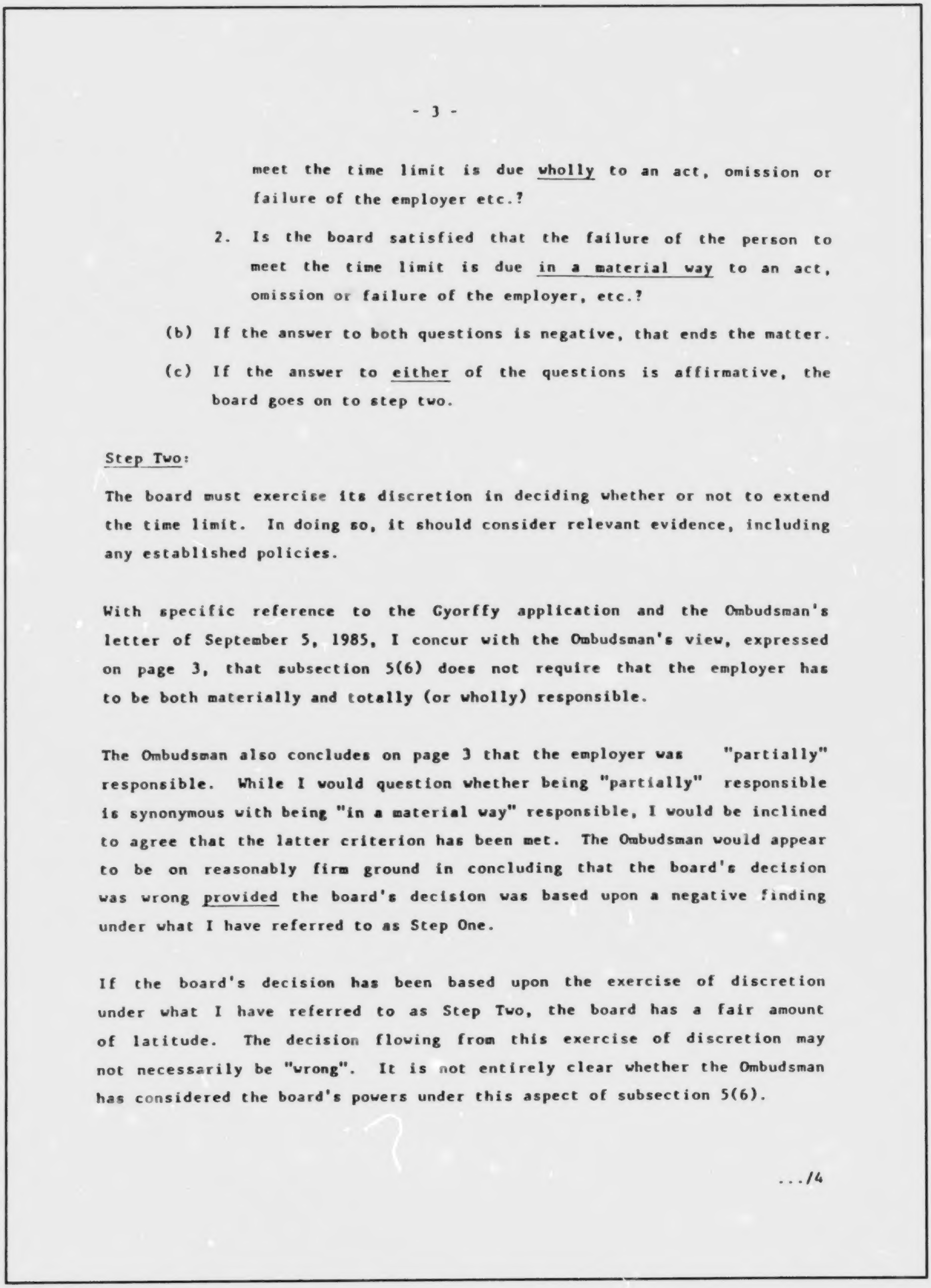
In summary, the application of subsection 5(6) involves a two step process:

Step One

(a) the board must first of all ask itself two questions:

1. Is the board satisfied that the failure of the person to

.../3



meet the time limit is due *wholly* to an act, omission or failure of the employer etc.?

2. Is the board satisfied that the failure of the person to meet the time limit is due *in a material way* to an act, omission or failure of the employer, etc.?

(b) If the answer to both questions is negative, that ends the matter.

(c) If the answer to *either* of the questions is affirmative, the board goes on to step two.

Step Two:

The board must exercise its discretion in deciding whether or not to extend the time limit. In doing so, it should consider relevant evidence, including any established policies.

With specific reference to the Gyorffy application and the Ombudsman's letter of September 5, 1985, I concur with the Ombudsman's view, expressed on page 3, that subsection 5(6) does not require that the employer has to be both materially and totally (or wholly) responsible.

The Ombudsman also concludes on page 3 that the employer was "partially" responsible. While I would question whether being "partially" responsible is synonymous with being "in a material way" responsible, I would be inclined to agree that the latter criterion has been met. The Ombudsman would appear to be on reasonably firm ground in concluding that the board's decision was wrong *provided* the board's decision was based upon a negative finding under what I have referred to as Step One.

If the board's decision has been based upon the exercise of discretion under what I have referred to as Step Two, the board has a fair amount of latitude. The decision flowing from this exercise of discretion may not necessarily be "wrong". It is not entirely clear whether the Ombudsman has considered the board's powers under this aspect of subsection 5(6).

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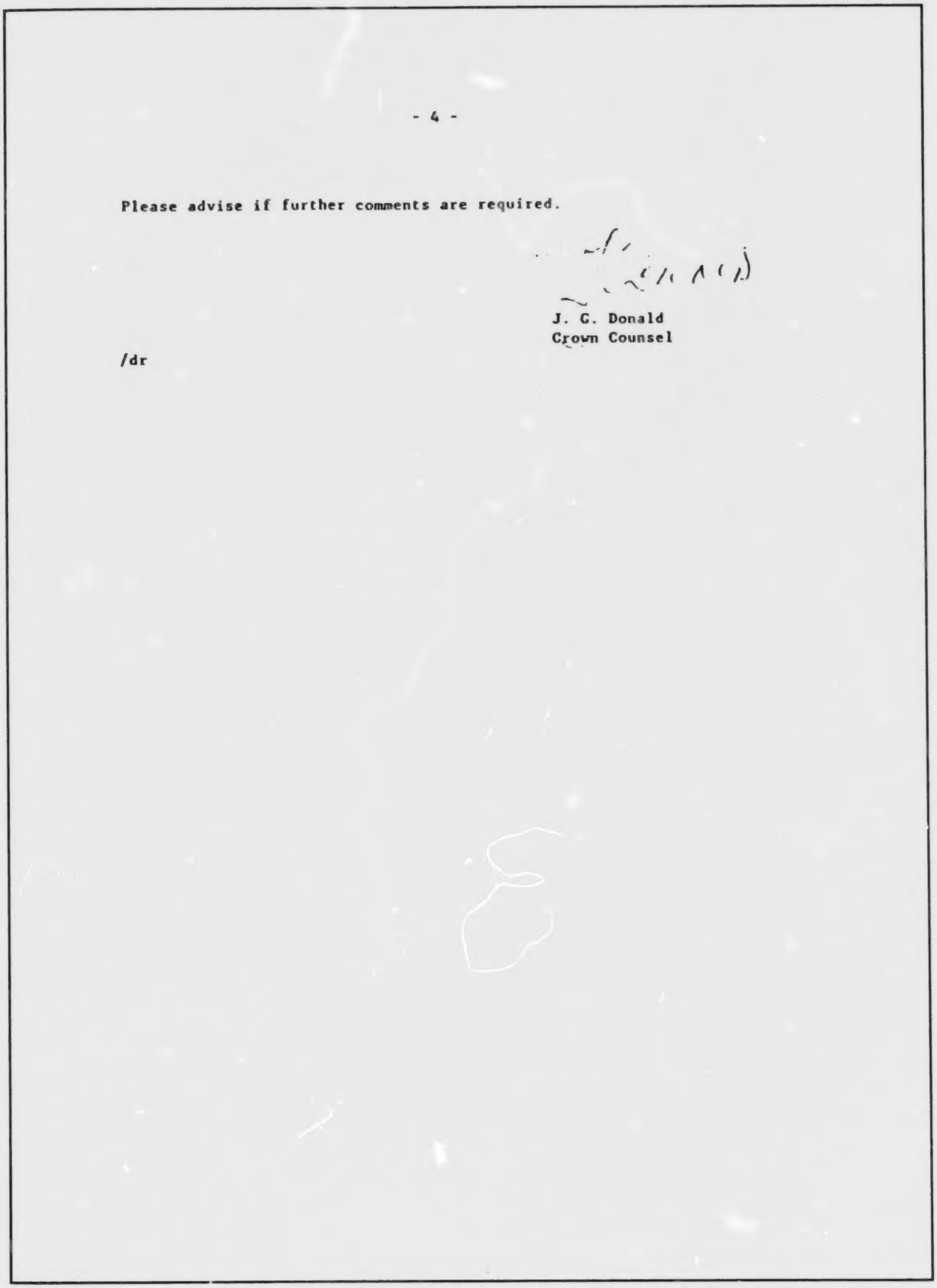
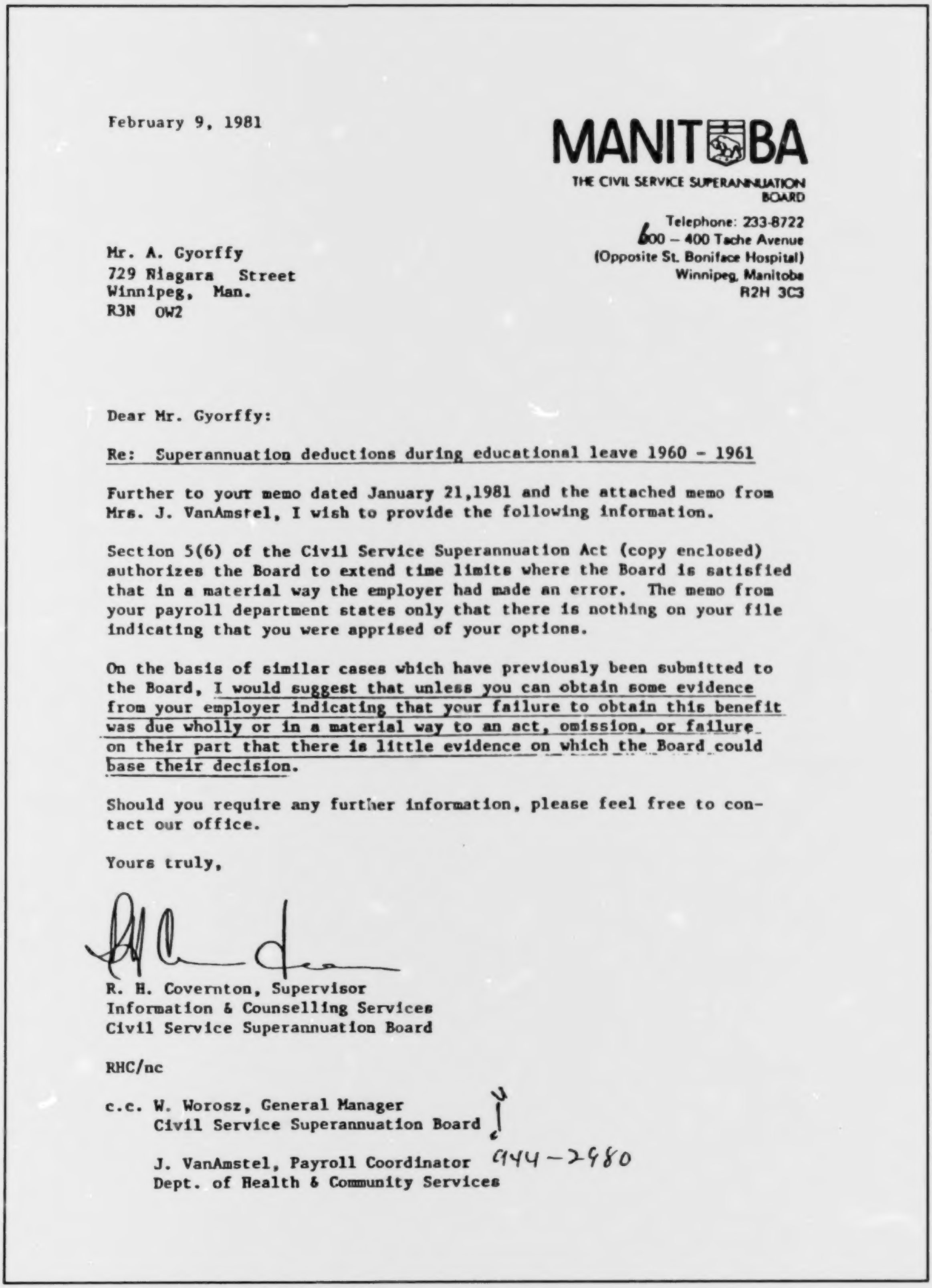


Please advise if further comments are required.

J. G. Donald
Crown Counsel

/dr

Appendix I



February 9, 1981

MANITOBA
THE CIVIL SERVICE SUPERANNUATION BOARD

Telephone: 233-8722
600 – 400 Tache Avenue
(Opposite St. Boniface Hospital)
Winnipeg, Manitoba
R2H 3C3

Mr. A. Gyorffy
729 Niagara Street
Winnipeg, Man.
R3N 0W2

Dear Mr. Gyorffy:

Re: Superannuation deductions during educational leave 1960 - 1961

Further to your memo dated January 21,1981 and the attached memo from Mrs. J. VanAmstel, I wish to provide the following information.

Section 5(6) of the Civil Service Superannuation Act (copy enclosed) authorizes the Board to extend time limits where the Board is satisfied that in a material way the employer had made an error. The memo from your payroll department states only that there is nothing on your file indicating that you were apprised of your options.

On the basis of similar cases which have previously been submitted to the Board, I would suggest that unless you can obtain some evidence from your employer indicating that your failure to obtain this benefit was due wholly or in a material way to an act, omission, or failure on their part that there is little evidence on which the Board could base their decision.

Should you require any further information, please feel free to contact our office.

Yours truly,

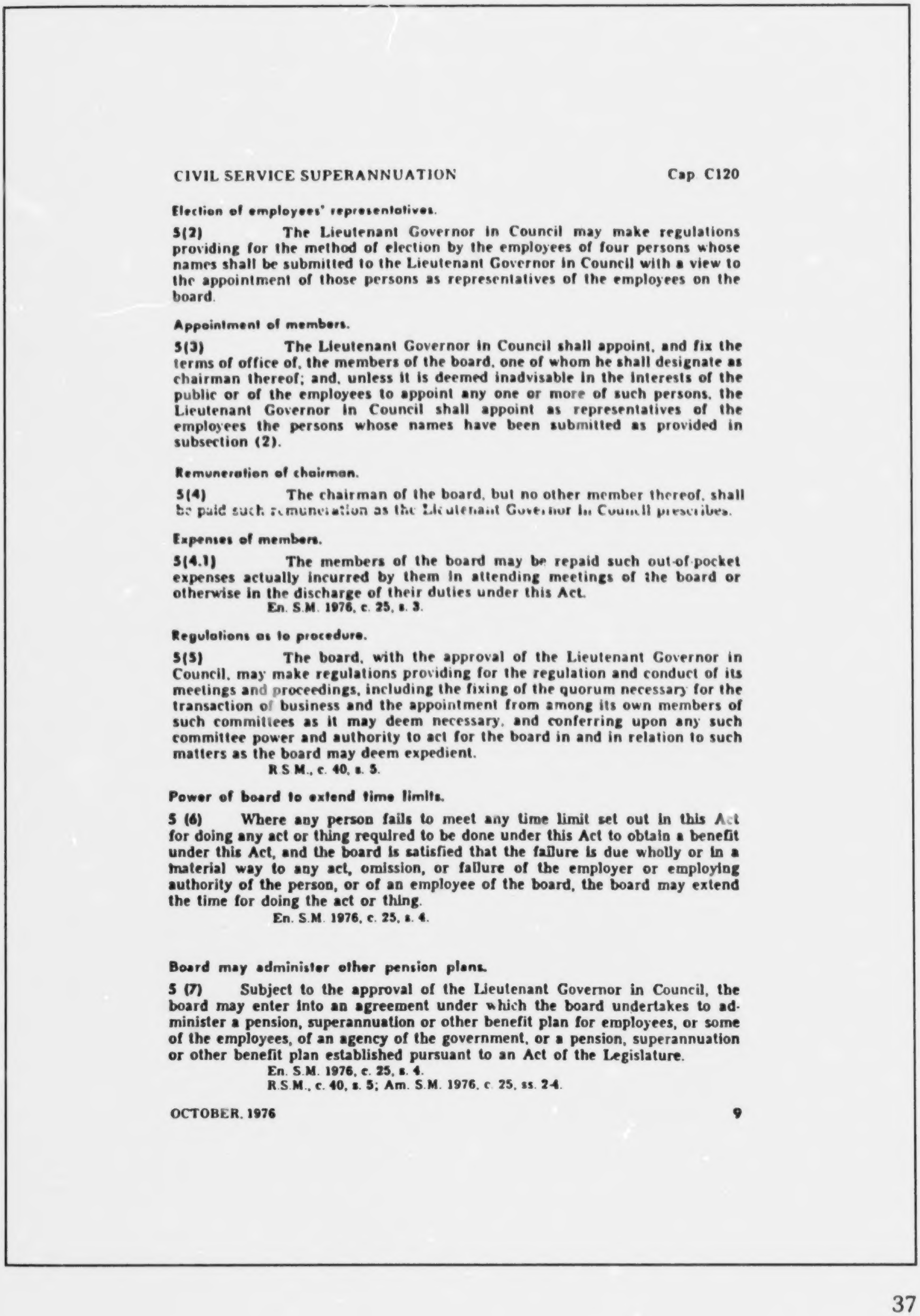
R. H. Covernton, Supervisor
Information & Counselling Services
Civil Service Superannuation Board

RHC/nc

c.c. W. Worosz, General Manager
Civil Service Superannuation Board

J. VanAmstel, Payroll Coordinator 944-2980
Dept. of Health & Community Services

Appendix J



Election of employees' representatives.

5(2) The Lieutenant Governor in Council may make regulations providing for the method of election by the employees of four persons whose names shall be submitted to the Lieutenant Governor in Council with a view to the appointment of those persons as representatives of the employees on the board.

Appointment of members.

5(3) The Lieutenant Governor in Council shall appoint, and fix the terms of office of, the members of the board, one of whom he shall designate as chairman thereof; and, unless it is deemed inadvisable in the interests of the public or of the employees to appoint any one or more of such persons, the Lieutenant Governor in Council shall appoint as representatives of the employees the persons whose names have been submitted as provided in subsection (2).

Remuneration of chairman.

5(4) The chairman of the board, but no other member thereof, shall be paid such remuneration as the Lieutenant Governor in Council prescribes.

Expenses of members.

5(4.1) The members of the board may be repaid such out-of-pocket expenses actually incurred by them in attending meetings of the board or otherwise in the discharge of their duties under this Act.
En. S.M. 1976, c. 25, s. 3.

Regulations as to procedure.

5(5) The board, with the approval of the Lieutenant Governor in Council, may make regulations providing for the regulation and conduct of its meetings and proceedings, including the fixing of the quorum necessary for the transaction of business and the appointment from among its own members of such committees as it may deem necessary, and conferring upon any such committee power and authority to act for the board in and in relation to such matters as the board may deem expedient.
R.S.M., c. 40, s. 5.

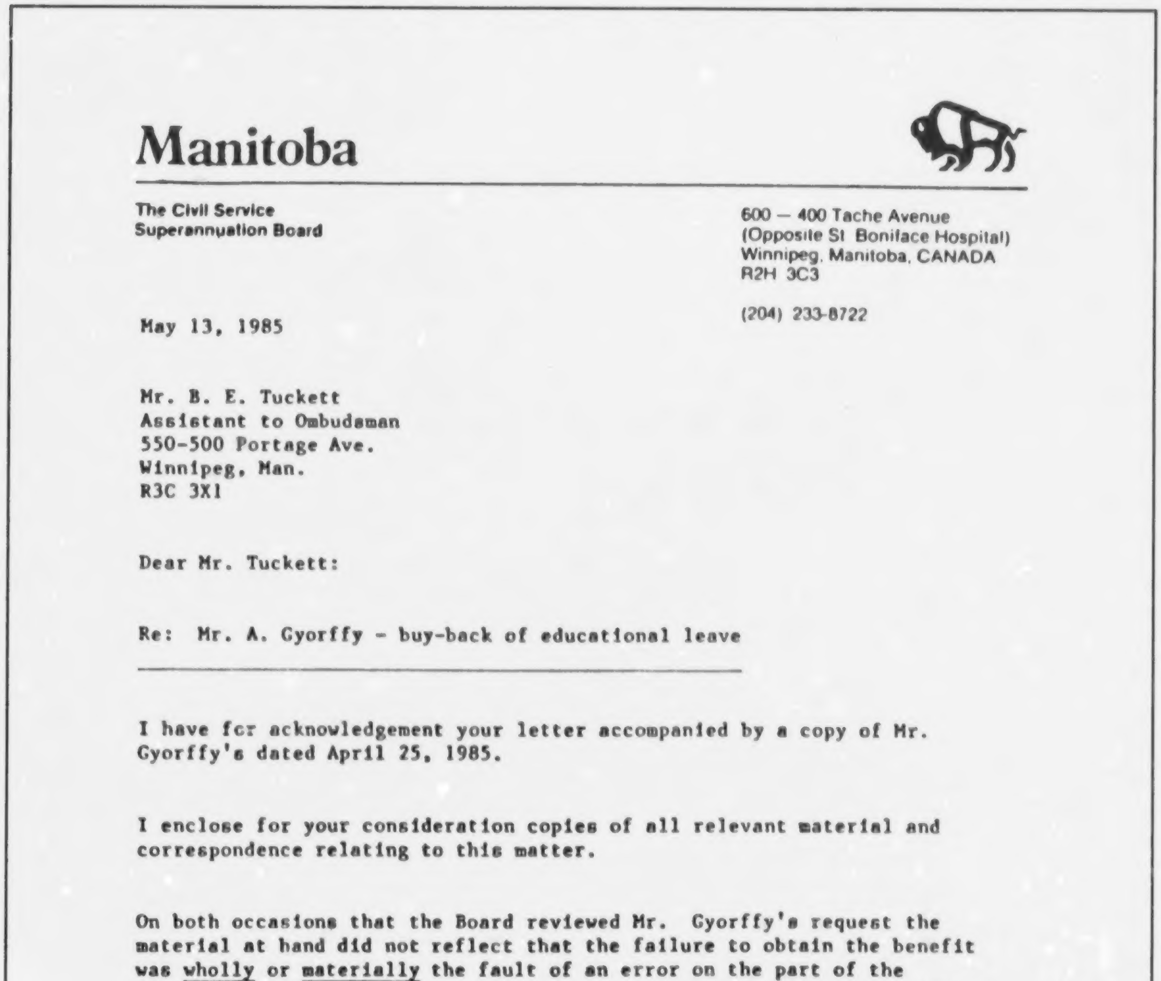
Power of board to extend time limits.

5 (6) Where any person fails to meet any time limit set out in this Act for doing any act or thing required to be done under this Act to obtain a benefit under this Act, and the board is satisfied that the failure is due wholly or in a material way to any act, omission, or failure of the employer or employing authority of the person, or of an employee of the board, the board may extend the time for doing the act or thing.
En. S.M. 1976, c. 25, s. 4.

Board may administer other pension plans.

5 (7) Subject to the approval of the Lieutenant Governor in Council, the board may enter into an agreement under which the board undertakes to administer a pension, superannuation or other benefit plan for employees, or some of the employees, of an agency of the government, or a pension, superannuation or other benefit plan established pursuant to an Act of the Legislature.
En. S.M. 1976, c. 25, s. 4.
R.S.M., c. 40, s. 5; Am. S.M. 1976, c. 25, ss. 2-4.

Appendix K



Manitoba

The Civil Service
Superannuation Board

600 — 400 Tache Avenue
(Opposite St. Boniface Hospital)
Winnipeg, Manitoba, CANADA
R2H 3C3

(204) 233-8722

May 13, 1985

Mr. B. E. Tuckett
Assistant to Ombudsman
550-500 Portage Ave.
Winnipeg, Man.
R3C 3X1

Dear Mr. Tuckett:

Re: Mr. A. Gyorffy - buy-back of educational leave

I have for acknowledgement your letter accompanied by a copy of Mr. Gyorffy's dated April 25, 1985.

I enclose for your consideration copies of all relevant material and correspondence relating to this matter.

On both occasions that the Board reviewed Mr. Gyorffy's request the material at hand did not reflect that the failure to obtain the benefit was wholly or materially the fault of an error on the part of the employing authority. With respect to the concept of wholly responsible the Board felt in light of its various communications outlined below that the employee has some responsibility for awareness of potential benefits:

- employee brochures distributed in 1974 and 1977 that highlighted this particular benefit.
- the 21st Annual Report dated December 5, 1960, under the section "Amendment No. 4", (copy attached) indicates that employees on educational leave without salary can make payments to the Fund to have the period of leave included as pensionable salary.
- a notice (copy attached) was sent out with the benefit statement in July, 1980 reflecting the Board Policy (copy attached) concerning additional service credits acquired because an individual wasn't aware of a benefit.
- we also provided Mr. Gyorffy with a pension estimate in 1977 and he did not question the amount of pension or service that it was based on.

. . . . 2

Appendix K

Therefore, the employee is felt to have some responsibility to read and be aware of benefit information which is distributed, and the responsibility is not "wholly" the employers.

With respect to being responsible in a material way, the employee states that after a review of the file there is no indication that the employer formally notified him of this benefit. To be an error materially, it would have had to be the employer's policy to regularly and formally notify all employees going on educational leave of this particular benefit. It does not appear that this was the standard accepted practice and that the department simply erred in not notifying Mr. Gyorffy. Therefore, it does not appear to be material in the sense that it was not a deviation from a standard accepted practice of the department.

Personally I am sympathetic to Mr. Gyorffy's request and have on two occasions submitted the matter for a full review by the Board, ensuring that all documentation and supporting material was presented. On another occasion I arranged a meeting with the employee Civil Service Board representative, Mr. E. McGill, and Mr. J. Pullen of the M.G.E.A., myself and Mr. Gyorffy to again review the matter ensuring that Mr. Gyorffy's employee representative from the Board as well as a senior staff member from the M.G.E.A. was present.

Therefore, I feel that Mr. Gyorffy's received equitable treatment by the Board in a review of his claim. Todate there has not been sufficient evidence to support that the employer was "wholly or in a material way" responsible. The Board was of the opinion that Mr. Gyorffy was in some way responsible for keeping informed on benefits and also to ensure that they were in fact protected during his period of educational leave.

Should you require any further information or assistance, please contact our office.

Yours truly,

Walter Worosz, General Manager
Civil Service Superannuation Board

WW/dk
Encl.

The preceding case has been presented in this Annual Report to follow-up and conclude a matter first brought to the attention of the Legislature in my 1985 Annual Report. As well, the Aladar Gyorffy case has been presented here as a public report in accordance with Section 43 of The Ombudsman Act. I feel that I have sufficiently weighed the interests of the individual, the agency of the government and the public and that by publishing this report I have, in good faith, fulfilled my function and duty under The Ombudsman Act. While the individual's situation may not be changed by the publication of this report, and while not all will agree with the Ombudsman's position on this case, it is my sincere hope that the publication of this case will help bring about a public awareness, interest, and scrutiny of administrative procedures and thereby aid in reducing the potential for injustice in the future.

Comment on Workload and Staff

While the year 1986 saw a slight decrease in the number of complaints presented to the Ombudsman, 1987, by contrast, showed a flurry of activity resulting in 757 formal complaints, an increase of 83 complaints (12%) over last year's total of 674. With respect to informal concerns (primarily telephone inquiries) this number saw an increase of 1,914 calls, rising drastically from 1,347 in 1986 to 3,261 (142%) in 1987. The overall workload increased from 2,021 total concerns in 1986 to 4,018 formal and informal concerns in 1987, i.e. a workload increase of 99%.

Despite the rather onerous workload in 1987, my staff managed to maintain an air of sanity and productivity, closing out several of the formal cases that had been carried over from previous years as well as concluding a good percentage (76%) of the 757 formal cases reviewed during the year. I extend and record in this report my thanks to my staff for a job well done.

Mr. Jonas G. Dubas, our summer student under the Student Temporary Employment Program (STEP) assisted us through the summer of 1987 with a continuation of the project begun the previous year, namely the cataloguing and cross-indexing of recommendations and legal opinions which had accumulated over the years of operation of our office. I thank Jonas for his work on this project.

During the year, our administrative support staff worked effectively and efficiently to streamline the administrative support services and procedures within our office. Our computerized information system now seems to be securely in place with all relevant data (case files, Annual Report information and other statistics) for 1987 properly recorded. While initially we had to experience a fair amount of frustration (computer down time, etc.) in getting the system operational, the perseverance, patience and hard work of our support staff paid off and our computers are now working for us rather than causing work for us. We were also fortunate to add a secretary, Felicia Palmer, to our administrative support staff. We welcome Felicia to the team.

In August 1987, one of our Investigators, Mr. Douglas B. Adlard, terminated his employment with our office in order to pursue studies in the Masters of Law program at Queen's University in Kingston, Ontario. While we were sorry to see Mr. Adlard leave, we wish him success in his studies. Joining our team as Investigators were Susan Archibald, in June 1987 and Gail Perry, in September 1987. We welcome Susan and Gail, noting that with them being added to the office, this is the first time since receiving approval for six Investigators that we have actually had a full complement of Investigators. This certainly made a difference in our productivity during the last three months of 1987, and the gain has continued into 1988.

Our office staff for 1987 were as follows:

Barry E. Tuckett	Assistant Ombudsman
Donna M. Drever	Investigator (Children's Concerns)
Douglas B. Adlard (until August)	Investigator
Susan Archibald (from June)	Investigator
E. Joy Goertzen	Investigator
Gail P. Perry (from September)	Investigator
Kris Ramchandar	Investigator
Raymond J. Wahl	Investigator
Johanne B. Cayer	Office Manager
Marie E. Reidke	Word Processing Supervisor
Helen Kroeker	Secretary/Receptionist
Felicia C. Palmer	Secretary
Kiersten R. Taves	Secretary (Temporary)
Christine W. Knight	Secretary (Temporary)

The Manitoba Public Insurance Corporation

Update on Concerns Received Involving the Manitoba Public Insurance Corporation

Over the past years our office has received a number of complaints against the Manitoba Public Insurance Corporation. Generally speaking, the number of complaints received against a department or agency of the Provincial Government is not necessarily an indicator of good or bad administration. It may be that the complaints are primarily against the particular policy or legislation rather than against the way in which the policy or legislation is administered. In addition, normally where a department or agency has more involvement with the public, there is more potential for complaints.

We are not overly concerned with the fact that mistakes are made, as in most cases, no insurmountable problem is created by an error when there is a willingness to acknowledge, correct and resolve any grievance an error has caused. It is the willingness displayed by departments or agencies to review their actions and decisions, to be open to constructive criticism, comments and suggestions, to take whatever reasonable action is necessary to improve upon their administrative processes and to resolve valid grievances, which in my opinion is an indicator of good administration.

In 1987, our office received 68 complaints against the Manitoba Public Insurance Corporation whereas we received 62 complaints in 1986, 63 complaints in 1985 and 65 complaints in 1984. In addition, we received many complaints by phone where we provided information or referred the complainant to the appropriate section within the Corporation.

In addition to the number of complaints received over the years being relatively constant, there is, in many cases, a similarity in the concerns being brought forward. In my 1983 Annual Report, I raised concerns with the arbitration process and the procedures followed in reaching a settlement where there is a claim dispute. In that report I stated that in my opinion improvements should be made to the arbitration process which would enhance consistency and equity in the handling of disputes to bring about more mutually agreeable settlements. I also reported that the Corporation had appointed a task force for the specific purpose of reviewing all aspects of the arbitration procedure and recommending possible improvements.

In December of 1986 we again raised concerns with the Corporation relating to complaints we had received over the arbitration process. Quite frankly, I was not satisfied at that point that a serious review had been undertaken, nor was I aware of any material changes to make the process more fair and equitable. Accordingly, my assistant and I met with the President and General Manager of the Corporation to discuss in general terms the relationship between our office and the Corporation over the years, and to discuss specifically some areas of administrative activity by the Corporation that have given rise to complaints to our office. The issues raised related to;

1) Arbitration process.
2) Provision of legal representation to respondents in Small Claims Court action.
3) 50/50 assessment of liability where liability cannot be determined.
4) Refund of premiums.

Shortly thereafter, we received a response from the Corporation which attempted to address the above concerns. Again it seemed to me that the review of the concerns raised was cursory. The response presented arguments in support of the Corporation's current practices and processes. However, I found many of the arguments to be more defensive than valid. My feeling was that the Corporation either did not have an appreciation for the concerns presented, or there was a reluctance to change processes that have been in place for many years. However, in fairness to the Corporation, we were asked to review its comments to see if we would be satisfied that its posture on the issues raised was not unreasonable. This we have done.

In December of 1987, I wrote to the President and General Manager of the Corporation reporting my comments on the specific issues previously raised and the Corporation's response to these concerns. I believe that based on the concerns expressed to our office by the public over the years, the following issues warrant the need for full disclosure in this Annual Report, of our position on these matters.

Arbitration

I am of the opinion that there are deficiencies in the arbitration process which allow for inconsistency and inequity in handling of disputes relating to the quantum and adequacy of repairs or to the insurance monies payable in respect of a loss. The Corporation, in support of the present process advised that a review of the total loss procedures and the arbitration process had been undertaken and the process had been enhanced to the point that very few cases end up going to arbitration. It was noted that in 1986 the Corporation settled 20,206 total loss claims, with 34 going to arbitration and 3 to the umpire stage. The implication was that the low number of cases going to arbitration was an indicator that the process was satisfactory.

Firstly, I was surprised that only 34 cases went to arbitration in 1986. Every year our office receives more than that number of complaints relating to the settlement of total loss claims. The complainants are either advised of the arbitration process, referred to the Corporation's customer service department or the complaints are handled directly by our office. The complaints generally originate over the dissatisfaction with the offer of settlement. Our office becomes involved mainly in reviewing the administrative processes followed by the Corporation rather than in attempting to determine the adequacy of the offer of settlement.

Based on our knowledge of the concerns expressed relating to actual cash value disputes, our initial reaction is one of surprise that only .16% of total loss claims are disputed through arbitration. However, in considering our experience when discussing the arbitration process with individuals, we note that it is not unusual for individuals to express a reluctance to pursue the process.

Individuals raised concerns over the time that had already passed without a settlement and the time it may take to have the matter settled through arbitration. Questions have been raised such as how long will it take, how much will it cost, and how do I know where to find a competent appraiser. It is difficult to answer these questions and to assure people that the process will be uncomplicated, efficient and timely.

We say this with the understanding that there is no fixed time by which appraisers must come to an agreement, nor is there any fixed costs which may be charged by an appraiser. In addition, many claimants may never have been involved in selecting an appraiser in the past and may not know how to find or to judge whether a person is a competent appraiser.

It may well be that the reason few disputes go to arbitration is that the process is viewed as oppressive and claimants simply would rather settle for the Corporation's last offer than go through what could be perceived as a lengthy frustrating arbitration process.

The Corporation advised us that establishing procedures to guide appraisers as to what items should or should not be considered relevant would again be forcing the claimant to play by the Corporation's rules.

That argument did not in my opinion provide any support for having no procedures. I suggested that to ensure procedural fairness, most administrative processes established to resolve disputes have developed procedures to ensure openness, fairness and impartiality. In the case of actual cash value disputes, the process for resolving these disputes should in my opinion include procedures clarifying such matters as:

1) How to determine what is relevant in establishing actual cash values such as consideration of gold book price, market research, recent repairs that may affect vehicle value, etc.
2) When negotiations with the adjuster have reached a point where arbitration should be utilized.
3) How to find and appoint a competent appraiser.
4) The responsibility of each party in sharing of relevant information.
5) Time limits to avoid unnecessary delays.

A lack of procedures seems to disadvantage the claimants who may not be as knowledgeable as Corporation staff in understanding the method used to establish a fair value for their vehicle. Many claimants are not certain at what point further negotiation with the adjuster becomes fruitless and when arbitration should be utilized. In addition, claimants may not have any idea how or where to find a competent appraiser. We are aware of many cases in which claimants appointed friends or relatives to act on their behalf and it has been evident to us that the selection was not based on the person's ability to appraise. Rather, it appeared to us that the claimant felt that the person appointed should be persistent, persuasive and aggressive in arguing for a higher settlement. When negotiating with less knowledgeable people who may be presenting irrevelant considerations, the potential for conflict is enhanced with factors such as persistence, persausiveness and aggressiveness influencing the outcome rather than factors which should affect the actual cash value.

The establishment of rules that are known to both parties would in my opinion assist in reducing irrelevant considerations, would minimize conflicts and would make the process more efficient. Appropriate procedures would not give unfair advantage to one party, would not contribute to delays and would assist in fulfilling the objectives for which the process was created.

A number of examples of complaints received by our office were provided to the Corporation. The examples showed delays in the process, inconsistent treatment and a lack of understanding of the process. A few of the examples provided follow:

Example #1

> The accident occurred November 26, 1986 and the vehicle was considered a total loss. The insured alleged that the adjuster initially offered $1,300.00 plus the car. However, after calculating the vehicle value of $1,844.00 the adjuster proposed a settlement of $1,800.00. The insured requested $4,000.00. The adjuster increased the offer to $2,300.00. The insured felt the vehicle was worth $4,500.00 but indicated he would accept $3,500.00. The adjuster conducted a market comparison and increased the offer to $2,800.00. The offer was rejected and arbitration was suggested. The insured chose not to go to arbitration but accepted $2,800.00 minus the salvage value as he retained and repaired the vehicle. The matter was settled on May 19, 1987.

Example #2

The accident occurred on March 23, 1985. The vehicle was considered a write-off. Negotiations towards settlement were delayed pending a police investigation into the accident. A solicitor on behalf of the insured wrote to the Corporation on May 13, 1985 indicating that the insured required the use of a vehicle for his business and he was quite anxious to settle the matter so he could buy another vehicle. A proof of loss was submitted to the Corporation on July 29, 1985 requesting a settlement of $7,420.00. The Corporation rejected the proposal and offered $4,200.00. Arbitration was noted as an alternative. In October 1985 the insured named his daughter as his appraiser and the Corporation named its appraiser. The insured's daughter advised our office that she had obtained all receipts for vehicle repairs since the vehicle was purchased, had pictures of similar vehicles on dealership lots and had other material supporting her feeling for the vehicle's value. The insured's daughter raised concern that there was reluctance on the part of the Corporation's appraiser to meet. It was alleged that the Corporation's appraiser cancelled arranged meetings and wanted to meet her on weekends or evenings. The insured's daughter advised that the Corporation's appraiser showed up at a meeting with one small piece of paper containing the mileage, year and make of the vehicle. It was alleged that he had completely ignored the material she had compiled and that he suggested they go to an umpire. The insured's daughter was dissatisfied with the length of time involved stating that "it has taken 9 months to reach this point and no one has indicated to me how many months this will take. I am not confident the system will set me with a fair settlement in the umpire stage. In fact, I am threatened by it." The insured's daughter went on to say "my concerns are: how many citizens can afford to go this long without a vehicle; how many citizens have the money to buy another vehicle in the meantime; and of course, how many citizens can afford to pay an appraiser for this long?". The claim was settled through arbitration on April 14, 1986 with the insured receiving a settlement of $4,891.90 including sales tax.

Example #3

The accident happened on August 22, 1987. The vehicle was considered a total loss. While at the compound the estimator noted on a vehicle identification and condition report form that the actual cash value was $7,000.00 with no consideration for air conditioning. The insured advised our office that the adjuster initially offered him $5,300.00 as settlement but after discussing the matter further the offer went to $6,300.00 and then to $7,000.00. The Corporation file shows that on September 25, 1987 the adjuster noted the black book price to be $6,800.00 plus options. It was noted that the insured wanted $9,000.00 based on dealer quotes whereas the adjuster advised the insured that the value was about $7,000.00 based on the Corporation's research. On October 19, 1987 the insured contacted the adjuster to advise that dealers valued his vehicle at $8,500.00. The adjuster reiterated the offer of $7,000.00. On November 3, 1987 the insured telephoned the adjuster and asked if any dealers were contacted. The adjuster indicated that dealers were not contacted. Following inquiries by our office, the Assistant Manager of the Claim Centre requested that the adjuster contact local dealers to broaden the base of the Corporation's backup. Following contact with dealers an offer was made of $8,000.00 plus provincial sales tax. An agreement was reached on about November 25, 1987 with the settlement being $8,500.00 plus tax.

There appears to be two steps in the process of settling actual cash value disputes. The first is the negotiation with claims personnel prior to arbitration, and the second is the arbitration process itself. Dealing with the first step, specifically the handling of the claim, it would appear that the emphasis should be at the outset on a fair, open and objective process which would minimize or eliminate the need for arbitration. With the number of claims personnel dealing with settlement disputes it would seem essential that clear procedures are developed to ensure consistency and equity in the treatment of claims. We note that while there are specific guidelines used by adjusters in determining actual cash value in total loss situations, in many cases at the beginning of settlement negotiations, claims personnel begin "dealing" or "bargaining" with the insured. Our reviews have shown that the Corporation's first offer has seldom been the final offer and it is usually through the persistence of the insured that further consideration is given to factors which would increase the value. This, in our opinion is establishing the conflict situation at the start.

We feel that the corporation could consider some improvements in the process which would enhance openness and fairness and discourage conflict. For example, in total loss situations an insured should be aware at the outset of the factors being considered when determining the actual cash value of the loss. The adjuster, at the initial meeting with the insured to discuss the settlement should explain the gold book values, explain how the value of the vehicle had been effected by high or low mileage, seek information on recent repairs that would effect the vehicle value and have some market comparisons. The actual cash value should be worked out with the insured prior to making an offer. The insured would then be clearly aware how the actual cash value has been determined and would be in a much better position to raise valid concerns or to feel satisfied that the Corporation is acting reasonably.

I believe this would assist in preventing claims personnel from throwing out offers for negotiation or "low balling". We believe that the actual cash value should be established by use of a work sheet and a copy of the work sheet should be provided to the insured. This work sheet could still recognize a range as established by the gold book value and the vehicle's condition, but this range should not exceed perhaps a plus or minus 10%. The requirement to negotiate a work sheet as soon as possible would avoid the type of negotiations that create delays such as was the case in some of the complaints our office had received. If an insured felt that the work sheet did not reflect the actual situation and wished to have a further review or appeal, it seems to me that the Corporation could have either an internal or external board which could independently review the adjuster's work sheet and the arguments put forward by the insured. Consistent factors to be used in making determinations could be established and regular dates could be set for hearing appeals. As well, a set fee could be established which could be less expensive for an insured than appointing a qualified appraiser.

Our office had suggested that the Corporation provide an advance payment where a dispute arises over the actual cash value of a loss. If a process is established whereby steps towards settlement can be taken in a timely manner, advance payments would not be an issue. However, where there are undue delays in reaching a settlement a subtle pressure is placed on the insured who may need another vehicle and cannot afford one until settlement is reached. The Corporation could advance perhaps 75% of the value as determined by the adjuster on the actual cash value work sheet, when for example a dispute is going to arbitration. I would think an arbitration should not result in an award which is less than 75% of the adjuster's actual cash value determination. If so, the problem would seem to be with the adjuster's determination of value. We don't believe that advance payments to an insured should be discouraged on the basis that an adjuster may err in over estimating the value.

In conclusion, I feel that in the interest of fairness and equity a thorough review of the process followed in settling claims and resolving disputes is required.

Representation in Small Claims Court

Our office indicated its concern over the inequity created when the Corporation provides legal counsel to an insured in Small Claims Court. We recalled one example where the Corporation received diametrically opposed statements concerning the circumstances of an accident. The Corporation advised that it was unable to determine liability and therefore assessed each party 50% responsible. One of the insured who objected to being considered 50% responsible for the accident was advised by his adjuster that he could file an action for his deductible in Small Claims Court. The insured proceeded to Small Claims Court and found that the Corporation had provided a solicitor to represent the other party. Needless to say the insured was quite upset to find out that while the Corporation provided a solicitor to the other party, he was not entitled to legal representation by the Corporation.

We are aware that under The Manitoba Public Insurance Corporation Act and Regulations an insured is entitled to defence of any action brought against him as a result of an accident, and if an insured requests defence in a Small Claims Court action the Corporation is obliged to provide one. The Corporation advised our office that while Small Claims Court actions usually involve only the deductible amount, the presiding judge is asked to make a ruling on liability. The Corporation noted that it was the liability decision in which it was most interested in as the decision on liability could have a significant impact on other outstanding claims.

I suggested that we would be interested in receiving the views of the Corporation's legal department on this matter. If actions for the recovery of a deductible in Small Claims Court cannot obligate the Corporation beyond the amount of the deductible, it would seem that an amendment could be considered to either the Manitoba Public Insurance Corporation Act and/or Regulations to exempt the obligation of the Corporation to provide a defence in these actions.

Liability Assessment

There can be a detrimental effect on an insured when the Corporation assesses an individual as being 50% or more responsible for an accident. If a person has been involved in two accidents within a one year period for which he/she has been assessed to be 50% or more responsible, the Corporation imposes a substantial surcharge on the individual's driver's licence. It seems to me that any liability assessment that may result in a surcharge should be made on the basis of facts and evidence. One letter of which we are aware of from an adjuster to an insured stated:

"The statements given by you and the other party are conflicting to the extent that we are unable to establish liability for the above accident. Without independent evidence to confirm either account it is our contention that the only manner in which this may be concluded is on a 50/50 basis."

We believe that it is a contradiction to say that based on evidence the Corporation is unable to establish liability and then assess each party 50% or more liable.

The Corporation advised that there are two avenues of appeal to assessments made in such cases; one being to the Small Claims Court. We agree that in cases where liability cannot be determined that each party would have to consider Small Claims Court action to recover the full deductible. However, I do not feel a person should be faced with the burden of Small Claims Court to prevent a surcharge resulting from an assessment of liability which was based on expediency rather than on evidence which would support the assessment. Complainants have expressed anxiety over the prospect of court action especially when considering that the individual, after proceeding to Small Claims Court, may find a Solicitor for the Corporation representing the other party. From the insured's perspective, and we have heard this from many of our complainants, the Corporation may be seen to be using the 50/50 assessment as a means of obtaining surcharge revenue.

Another avenue of appeal is the Rates Appeal Board which is established under The Manitoba Public Insurance Corporation Act. An insured can appeal to this board when he/she has been assessed 50% or more responsible for a second accident which could be up to a year after the first assessment. The first assessment may have been a 50/50 assessment based on the Corporation's inability to establish liability. In a case like this, where a surcharge is assessed, the insured must take the time and responsibility to appeal an assessment made one year previously when recollections regarding the circumstances of the accident may not be as clear.

It seems to me that where the Corporation is unable to establish liability, no assessment should be made which would be used for consideration of a surcharge. In my opinion, only the insured's deductible in cases such as this should be subject to a 50/50 assessment.

Refund of Premiums

Our office has received complaints from people who returned their licence plates near the beginning of the month but had to pay for insurance until the end of the month. On the other hand we have received complaints from individuals who purchased their plates near the end of the month and had to pay for insurance from the beginning of that month. It appears that it would be more equitable to establish refunds and the cost of plates on a weekly or bi-weekly basis rather than on a monthly basis. The Corporation advised our office that the practice of refunding premiums based on a monthly pro-ration was under review. It was noted that changes to the system would require a change in the computerized system and that when a study had been completed on this matter this concern would be reviewed. At this time, we are not aware of any proposed changes to the Corporation's refund policy.

The Corporation advised our office that a review of the above concerns is currently under way. The Corporation has advised that it would provide our office with a complete report detailing its position on each item of concern. Based on our previous dealings with the Corporation, which have been cooperative and meaningful, I feel confident that the Corporation will give appropriate consideration to our comments and concerns. Nevertheless, I feel I must monitor the actions taken by the Corporation carefully in view of the many complaints received over the years relating to the above activities.

The Manitoba Developmental Centre

In my 1986 Annual Report I reported on the extensive review which had been conducted by my office concerning conditions at the Manitoba Developmental Centre, a Centre (under Manitoba Community Services) established to provide for children and adults, comprehensive service for all levels of mental retardation. The review was initiated at the request of the Minister of Community Services following an incident in which a resident at the Centre had been seriously injured in September 1985. Also, the Centre had become the subject of extensive public and media attention during 1985 and 1986. As a result of the concerns which were being raised publicly and the issues emerging from our initial investigation, our review expanded beyond looking simply at the incident of the resident's injury to a comprehensive look at the operation of the Centre, focussing on the social, recreational, educational, physical and other program needs of the residents at the Centre. Our review culminated in a rather extensive report being submitted to the Minister of Community Services. The report recommended that:

1) The concerns identified with respect to the social, recreational, physical and other program needs of the residents be addressed by the Department of Community Services;
2) The concerns raised with respect to the use of psychoactive drugs be addressed by the Department of Community Services;
3) Immediate steps be taken to ensure a safe medication system for the residents of the Manitoba Developmental Centre;
4) Before further reductions in the current staffing complement take place, it be determined that the safety and well-being of the residents will not be jeopardized;
5) All residents at the Manitoba Developmental Centre, up to and including 21 years of age, be given the opportunity to attend a full time educational program unless reasons of infirmity or fragility do not make it possible;
6) If there is a question as to whether the residents over 18 years of age are entitled to attend the school program on a full time basis, the Department of Education determine the question as to whether the spirit and intent of The Public Schools Act are being met;
7) The teachers at the school file incident reports on all residents who attend school with an injury; and
8) Immediate steps be taken to assess the air conditioning needs of the Centre and to take whatever action is necessary to ensure a safe and comfortable environment.

Due to the public interest in this matter, I held a news conference on April 23, 1987 at which time a summary of our report was made public. That summary included the recommendations mentioned above. I also made public at that time the Community Services Department's commentary on my report. That commentary provided information with respect to the specific action being taken to address my recommendations. Both the summary of my report and the Department's commentary on my report were printed in my last Annual Report. At that time I also indicated that I would continue to monitor the implementation of the recommendations made in this case and that I would report further in my next Annual Report.

The monitoring of the Manitoba Developmental Centre has been done through tours of the Centre during the past year, by the Ombudsman and the Investigator (Children's Concerns); through various discussions and follow-up inquiries as issues continue to be raised by community residents, politicians, staff members at the Centre, and the media; and through updated reports and information from the Department regarding the progress being made in the various areas of concern.

Looking now specifically to the eight recommendations made in this case, the following is an up-to-date account of what has taken place:

Recommendation #1: This recommendation was a very general recommendation, more or less a statement of principle, intended to elicit a commitment from the Department to fulfill what we felt to be its responsibility to address the concerns our investigation identified with respect to the social, recreational, physical and other program needs of the residents at the Centre. The Department's response was that the Welcome Home Program had begun to address these long standing concerns by, among other things, providing new facilities for socialization, recreation and vocational training through the construction of the new activities building. The Ombudsman and the Investigator (Children's Concerns) attended the official opening of the new activities building on September 20, 1987 and toured this facility. While we were impressed with this new building, and while there is no doubt that this new facility has the potential to enhance the lives of the residents at the Manitoba Developmental Centre, I have concern that the potential which this building affords will be greatly diminished if there remains insufficient staff and resources to enable appropriate programming and supervision.

The Department further responded to recommendation #1 indicating that the concerns identified with respect to the social, recreational, physical and other program needs of the residents were being addressed through the Welcome Home Program by increasing the staff to resident ratios, by a dramatic reduction of institutional admissions, and by the development of a Human Resource Plan to further enrich staff to resident ratios. Because our investigation had concluded that staffing issues impacted significantly on the social, psychological, educational and physical well-being of the residents at the Manitoba Developmental Centre, we were particularly interested in following up the Department's commitment to increasing and enriching staff to resident ratios. As reported publicly in April 1987, our review had suggested that the specific resident injury which had initiated our investigation was only one of a number of unexplained occurrences at the Manitoba Developmental Centre, and our investigation led me to believe that the injury sustained by the resident had a direct correlation to the staffing level at the Centre. We had raised concerns as well regarding the yearly increases in the number of reported incidents and injuries to the general resident population.

In following up the Department's stated commitment to the Human Resource Plan and the enrichment of staff to resident ratios, I wrote (on June 24, 1987) to the Minister of Community Services requesting information on the status of the Human Resource Plan and the enrichment of staff to resident ratios. The response from the Minister indicated that the Manitoba Developmental Centre Human Resource Plan received approval in principle from Treasury Board on May 5, 1987 and a detailed submission identifying the source for the $500,000.00 required for implementation would be forwarded after the first quarter financial reports were received and analyzed. We were informed that pending the expected approval of that submission, staff levels were being maintained at 643 SY's. Despite this information provided on July 22, 1987, our follow-up throughout the remainder of the year left us with concerns about the staffing pattern for the Centre, particularly after we viewed the statistics for the number of incidents occurring at the Centre in 1987. We recognize that it would be unrealistic to expect that there not be any incidents of injury or accident at the Centre, but we were very concerned that the number of incidents continued to increase as the resident population decreased. Hence, I contacted the Minister in April 1988 expressing again my concern about programming issues, overcrowded living areas and staffing levels and indicated that at that time I did not feel I was in a position to say that the Centre was meeting its stated objectives in relation to physical care, training and education.

On April 27, 1988, the Minister of Community Services responded to my concerns providing information about the matters I had brought to her attention. Information was provided with respect to the implementation of the Human Resource Plan. It was reported that the creation of a Transitional Unit was part of reaching the Human Resource Plan targets for staff composition and development. This Transitional Unit is to be a special unit to assist residents moving to the community by providing them with skills to adapt to their new lives in the community. I reviewed carefully this information received from the Minister and had further inquiries made with the staff at the Manitoba Developmental Centre. It appears to me that the Transitional Unit will serve only a small segment of the Centre's population, namely those residents targeted to move into the community.

In my news release of April 1987, I stated that it is important that the upgrading of community resources and the integration of residents in the community not detract from the greatly needed upgrading of institutional resources for those residents remaining at the Manitoba Developmental Centre. At the time of writing this report I still have concerns about staff to resident ratios, the implementation of the Human Resource Plan, and whether there have been any significant gains in the programming areas to improve the quality of life for the majority of residents at the Centre. These matters are under active consideration and pursuit with the Department and I shall report further in my next Annual Report.

Recommendation #2: This recommendation was that the concerns raised in our report with respect to the use of psychoactive drugs be addressed by the Department of Community Services. During our investigation we felt that there was reason to be seriously concerned over the lack of programming for the residents of the Centre. We felt there was a question as to whether the staffing pattern allowed more than basic custodial care of the residents with little or no time for behaviour management, development of independent skills and social interaction. Our recommendation came as a result of a concern that had been expressed to our office that the Centre, due to lack of staff and resources to deal with behavioural problems, may be using medication as a form of behaviour management.

The Department responded to this recommendation indicating that it concurred that the level of prescription of psychoactive drugs appeared to be undesirably high, but stated that any reduction in medication must be taken responsibly to safeguard the safety and well-being of the residents and others. The Department advised that the Manitoba College of Physicians and Surgeons had been asked to review these concerns with the Centre's medical staff to ensure that the level of psychoactive drug use was consistent with prudent contemporary medical practice. The Department indicated that the College's recommendations would be followed.

In following up recommendation #2, I provided the College of Physicians and Surgeons with appropriate and relevant information from our investigation to assist the College with its review of this matter. Subsequently, we obtained from the Minister of Community Services a copy of the College's report to her on its review of the standards of medical care at the Manitoba Developmental Centre. While the College's report indicated that there was no evidence of **abuse** of medication, it did support our concern regarding staffing at the Centre and it did confirm that due to lack of resources and programming the Centre may be using medication as a form of behaviour management. The College's report stated:

> "Staffing and input of the Psychology Dept. needs to be formalized and increased. At the moment, residents face endless, empty hours due to lack of staff for programming."
>
> "The team was unanimous in agreeing that there is a need for increased staffing, particularly at the front line level. Many activities to condition and retrain the residents simply cannot be done, and it becomes necessary to fall back upon medications as an essential alternative. This lack of staff does not allow the Centre to meet its own objectives."
>
> "The emphasis in the institution now is of a medical nature. With the implementation of the previous suggestions, that is, improved environment and staffing, both frontline and psychology staff, it is hoped that the emphasis for care can be shifted to a more psychological and hence normalizing format. At the moment, care is of a custodial type."

In summary, the Ombudsman is satisfied from his follow-up on recommendation #2 that this recommendation was implemented and that the concerns about the use of psychoactive drugs was properly reviewed by the appropriate body. However that review, like the Ombudsman's report, highlighted concerns re staffing, programming and facilities which we shall continue to pursue with the Department.

Recommendation #3: This recommendation was that immediate steps be taken to ensure a safe medication system for the residents of the Manitoba Developmental Centre. The recommendation was made due to our concern over the adequacy of the staffing level in the pharmacy at the Centre. The Department responded to this recommendation indicating that an additional pharmacist was hired and the physical space for the pharmacy was doubled. As well, we were advised that an automatic drug dispensing system was in place and funding for a computer to support and enhance that system had been included in the 1988-89 estimates. At the time of writing this report I received information indicating that a computer aided drug dosage system had been purchased for use in the pharmacy. We were informed that the adequacy of the increased staffing and space would be reviewed on an ongoing basis and if found to be still deficient would be rectified. Also with respect to the medication system, the report of the College of Physicians and Surgeons had indicated that:

> "Charting and recordkeeping was generally good. The use of medication and other medical measures were well documented and justified."

From a follow-up of recommendation #3, the Ombudsman is satisfied that this recommendation has been implemented.

Recommendation #4: With this recommendation we wished to ensure that before further reductions in the staffing complement took place it would be determined that the safety and well-being of the residents would not be jeopardized. The Department responded to this recommendation indicating that planned further staffing reductions would continue to improve staff resident ratios at a steady pace since the decrease is also less than the decrease in resident population. Again the Human Resource Plan was mentioned as being under active consideration, and that this plan would add additional staffing. The Department also indicated that the Director of Nursing believed that space was a large contributor to safety and improvements to nursing home standards would be met by July 1, 1987 for all residents.

Concerning follow-up on this recommendation, I have already commented above on the matter of staff to resident ratios and the Human Resource Plan. As mentioned our office is still pursuing questions around these issues and will report further at a later date. With respect to the Department's undertaking that nursing home standards would be met for all residents by July 1, 1987, we followed this up through tours on August 21, 1987 and March 3 and 4, 1988 and according to the information we obtained, this goal was not met. While 12 of the 19 residential areas met or exceeded the rated bed capacity, the remaining 7 did not reach the nursing home standards of space. Hence we could say that these areas still could be considered overcrowded. The Department's response was that looking at the overall facility, the capacity for space is not a problem, but the ability to distribute residents within that space presented some problems. The Department pointed out that distribution of residents in living areas is a problem due to several factors such as level of retardation, age, sex, functioning level, behavioural problems, ambulatory ability or special needs. The Department acknowledged that these continue to be concerns but stated that these are being dealt with in a systematic and planned manner at the Manitoba Developmental Centre.

The Ombudsman feels it is very important that the concerns around staffing and overcrowding be dealt with systematically because these two factors are closely linked to resident injury. Following our initial report, the Department in its commentary on incidents of resident injury, stated that its strategy to reduce incidents of resident injury is to continue to reduce the Centre's population to provide increased space per resident. The Director of Nursing, according to the Department, had identified this as a primary factor in reducing resident aggression.

Our follow-up on resident injury showed that resident incidents were up from 590 incidents in 1986 to 701 incidents in 1987, a total increase of 111 incidents over the past year, with the most significant increase being in the area of aggression which rose from 189 in 1986 to 414 in 1987. In discussing this increase with the Director of Nursing, it appeared that it may be attributed in part to a change over the last year in the types of incidents listed under the category of aggression. It was also reported that the aggression may be up because of the focus on the use of medication at the Centre and resultant changes and reductions in medication. In addition, residents continue to be transferred within the Centre and it was felt that this was a contributing factor. While there may be some explanations for the high number of incidents, in my opinion it still remains an area of concern as there is an average of 58.4 incidents per month. **While change of medication and transfers within the Institution may be contributing factors, one must also wonder whether the staffing patterns and overcrowded areas are not a significant contributing factor.**

The Ombudsman will continue to monitor the staffing and overcrowding issues and the Department's systematic and planned handling of these concerns.

Recommendation #5: This recommendation was intended to ensure that all residents at the Centre, up to and including 21 years of age, be given the opportunity to attend a full-time educational program unless reasons of infirmity or fragility do not make it possible. The Department reported that this recommendation has been met, and our follow-up review of the report of the Department of Education, which reviewed the Manitoba Developmental Centre Educational Program, confirmed this. The Ombudsman is satisfied with respect to recommendation #5.

Recommendation #6: This recommendation was closely related to the preceding one, but concentrated on having the Department of Education clear up any questions concerning the entitlement of residents over 18 years of age to attend the school program on a full-time basis. Community Services reported, in response, that Manitoba Education had been asked to review the school program and determine whether the programs in place were reasonable for the residents based on the individual needs and whether they met the spirit and intent of The Public Schools Act.

To follow-up this recommendation as well as recommendation #5, our office attained and reviewed a copy of the report from Manitoba Education. The report indicated that the staff of the Education Program at the Centre are very committed and caring but that some consultative and professional development support is required to compensate for their isolation from the education community. The report also made the following observations:

> "The physical facilities do not compare favorably with the public school system. In spite of the physical space restrictions, Manitoba Development Centre education staff could increase the opportunities for individual instruction by team teaching and the grouping and regrouping of students to facilitate both individual and group learning activities.
>
> As increased focus on the teaching chronologically age appropriate functional activities and tasks designed with real life situations in mind would support the students with the transition from institution to community. Education staff, by working directly with students in the classroom, the Vocational Training Department Program and community settings would facilitate such a transition."

Community Services informed us that staff at the Manitoba Developmental Centre received this report well and were developing plans in response to its recommendations. By fall of 1988, the entire school program will have been moved to the Aspen Activity Centre, which provides superior physical facilities and will allow for more flexible grouping of students. We were advised that changes in the curriculum will result in enhanced life skills and vocational training activities. As well, we were informed that with regard to these proposed improvements, and others, Manitoba Developmental Centre will seek further consultation from Manitoba Education and the Portage School Division.

The Ombudsman is satisfied that appropriate action has been taken with respect to the recommendations concerning the school program.

Recommendation #7: While this recommendation suggested that teachers at the school file Incident Reports on all residents who attend school with an injury, the recommendation was not intended to suggest that the injuries are occurring at school nor to suggest that teachers were being any less responsible than others at the Manitoba Developmental Centre. It was simply felt that a good incident reporting system at school would assist in tracking down the origin of some of the unexplained resident injuries. The Department responded to this recommendation indicating that it believed the reporting policies were comparable to reporting policies in any school setting. However, the Department agreed that the recommendation was reasonable as a double-check for the Centre's vulnerable resident population and undertook to review the matter to determine if procedures could be improved. A follow-up check with the Manitoba Developmental Centre received confirmation that recommendation

#7 was implemented, and also that a review of reporting procedures was undertaken.

Recommendation #8: This recommendation was directly related to the physical environment of the Manitoba Developmental Centre, urging that immediate steps be taken to assess the air conditioning needs and also that whatever action necessary be taken to ensure a safe, comfortable environment. As well as the very uncomfortable conditions due to lack of air conditioning, our report had pointed out that some of the living areas for the residents were very congested and there was lack of environmental stimulation. Recognizing that some of the less desirable physical characteristics were a direct result of the architecture and structure of the buildings, nonetheless it appeared to us that some improvements could be made to the physical environment through maintenance and cosmetic upgrading. It should be noted that the College of Physicians and Surgeons in its report commented on this matter as well stating:

> "The facility needs a physical renovation in a major way. The 'Welcome Home' program is serving the need of those able to be discharged, but those who are most disadvantaged are left in antiquated buildings that should have been abandoned long ago. Even the newest buildings are not well maintained."

The Department has responded to recommendation #8 indicating that:

> "The Southgrove building is most critical regarding comfort during the summer. It is vented for air conditioning and requires only a refrigeration unit and controls. The estimated cost is $200,000-$250,000. This may be done this summer. Additional air conditioning window units from Northgrove will also provide some additional immediate relief. The Department will review means to implement this recommendation."

At the time of writing this report we were informed that the central air conditioning system has been installed and is in operation in the Southgrove building. The window units from Southgrove are being moved to Westgrove, and with that there will be some air conditioning in all residential areas. As for other improvements, we noted on a follow-up tour that painting has been completed in some of the wards and some wards had made definite improvements with respect to decorating through the use of plants, pictures, mobiles and stuffed animals or other toys. While our tour through the facility noted these improvements had taken place, we also noted that there were areas of work yet to be completed, for example the installation of privacy doors in the toilet areas where appropriate and feasible. At the time of writing this commentary we received correspondence from the Department indicating that windows in all cottages were being cleaned and that further improvements planned for the Manitoba Developmental Centre include:

- Replacement of windows, as required, in residential areas;
- Selected renovations to accommodate residents with mobility and/or perceptual impairments;
- Replacement of some furniture which has become useless; and
- Buildings will be painted as required. Government Services has completed Westgrove.

It would appear that the Department has acted and is continuing to act on recommendation #8. Our office will continue to monitor progress on the implementation of this recommendation.

Conclusion

The Office of the Ombudsman has monitored, through 1987 and into 1988, the situation concerning the Manitoba Developmental Centre with particular reference to the implementation of the recommendations that resulted from our investigation which was completed in the spring of 1987. Generally speaking, the Ombudsman is satisfied that reasonable efforts have been made to respond to and implement his recommendations. However, as indicated above, there are still some areas of concern and these will be carefully monitored and followed through to a conclusion. As we indicated in our initial report to the Department, the residents of the Manitoba Developmental Centre are a very special part of our community who deserve the right to develop as far as their capabilities allow, who deserve to live as comfortably as possible, and who deserve to have their dignity and self-respect maintained.

Investigator (Children's Concerns)

During 1987 our office continued to play an active role in matters involving children. Our Investigator (Children's Concerns) received 85 cases on concerns which in one way or another involve the well-being and best interest of children. These cases are very time consuming and quite often deal with very sensitive and very important issues. I believe our Investigator (Children's Concerns) in handling these matters has done an excellent job relating both to the individuals who raised these concerns as well as to the child caring agencies, departments and institutions. Some of our cases involving children are presented later in this report under the section entitled, Selected Case Summaries.

As well as investigating specific cases and monitoring provincial agencies and institutions through various reviews and inquiries, our Investigator (Children's Concerns) monitored certain inquests which were held regarding the deaths of children or persons who had been residing in institutions or special care homes.

Our Investigator (Children's Concerns) continued, as active as time would allow, a public education and public relations program. Her speaking engagements included addressing the management group at the Manitoba Adolescent Treatment Centre and the residents at Agassiz Centre for Youth. Among the various receptions and annual meetings attended were: the Annual Meeting of Villa Rosa; the Annual Meeting of The Manitoba Association of Rights and Liberties, which featured a speech on Child Advocacy and Children's Rights; a reception connected with the Marymound Male Adolescent Victim Offender Sexual Abuse Treatment Program; the Annual Meeting of Knowles Centre; and the open house and official opening of the new Activities building of the Manitoba Developmental Centre.

Over the past few years our Investigator (Children's Concerns) through the diligent pursuit of her responsibilities has earned the respect of those involved with child care matters. The Department of Community Services, some of the child and family services agencies, the Manitoba Adolescent Treatment Centre and others have from time to time consulted with us on policies, practices and procedures relating to children. In December 1987, our Investigator (Children's Concerns) attended a consultative session with Mr. Rix Rogers, Special Advisor to the Minister of Health and Welfare regarding child sexual abuse issues.

The Investigator (Children's Concerns), during the past year, attended various continuing education courses, seminars and workshops on issues such as child abuse, family mediation and the videotaping of child sexual abuse victims. One significant workshop attended by the Investigator (Children's Concerns) was the Second Canadian Ombudsman Staff Workshop which is discussed in more detail later in this report.

Finally, it should be noted that our Investigator (Children's Concerns) will make herself available to speak to groups, organizations, agencies and institutions about the function of the Ombudsman's Office, particularly as it relates to children's concerns. During 1987 she indicated to various individuals and groups in the child care and family service field her willingness to speak about her work. While the Ombudsman's Office does not have much money for public education purposes, we certainly do all that is within our power and limited resources to spread the word about our function and to help ensure administrative fairness in matters involving children.

Public Relations

The Ombudsman attended thirty-seven functions which collectively involved about thirty-five hundred people. The following is a list of some of the events attended during the year.

Event	Location	Topic of Presentation (or Role Played*)	Approximate No. of People Present
Boy Scouts – Roblin Park Community Club	Winnipeg	Citizenship and the Role of the Ombudsman	15
University of Winnipeg – Law Class	Winnipeg	The Role of the Ombudsman	40
The Fifth Annual Winnipeg Calypso Monarch Competition Sponsored by: The St. Vincent and The Grenadines Assoc. of Winnipeg, Inc. The Caribbean Canadian Assoc. of Winnipeg, Inc. The Caribbean Entertainers Assoc.	Winnipeg	*Special Guest	150
Manitoba Public Insurance Corporation – Management Meeting	Winnipeg	The Role of the Ombudsman	60
The Manitoba Society of Occupational Therapists – Conference and Annual General Meeting	Winnipeg	The Ombudsman and Liability in the Health Care System	40
Manitoba Landlords Association Inc. – 12th Anniversary Meeting	Winnipeg	Anniversary—A Time for Reflection and Renewal	250
Trinidad and Tobago Society of Winnipeg, Inc. – Mother's Day Celebration	Winnipeg	*Special Guest	150
Garden Grove School Spring Tea	Winnipeg	*Special Guest	100
African Association of Manitoba, Inc. – 24th Africa Day Celebrations	Winnipeg	*Special Guest	200
Health Sciences Centre – Ombudsman Seminar	Winnipeg	The Role of the Ombudsman	15
MacDonald Youth Services – Annual Banquet	Winnipeg	*Guest	75
Selkirk Mental Health Centre – Law and Mental Health Workshop	Selkirk	The Role of the Ombudsman	130
Manitoba Health Services Commission – Staff of the Facilities Division	Winnipeg	The Role of the Ombudsman	30
Selkirk Mental Health Centre – Medical Staff Annual Barbeque	Selkirk	*Guest	75
The Fifth Annual Reggae Festival and Dance Sponsored by: The St. Vincent and The Grenadines Assoc. of Winnipeg, Inc.	Winnipeg	*Guest	150

Event	Location	Topic of Presentation (or Role Played*)	Approximate No. of People Present
The Caribbean Canadian Assoc. of Winnipeg. Inc. The Caribbean Entertainers Assoc.			
Manitoba Legislative Interns	Winnipeg	The Role of the Ombudsman	6
Manitoba Developmental Centre – Open House and Tea Official opening of new Activities Bld.	Portage la Prairie	*Guest	100
Harambee Centres Canada	Winnipeg	*Official opening and cutting of ribbon	50
The Dominica Assoc. of Manitoba – Annual Banquet and Dance	Winnipeg	*Special Guest	150
The Grenadian Assoc. of Manitoba – 6th Annual Harvest	Winnipeg	*Judge	150
Foster Parents Graduation Ceremony and Reception at the Legislative Bldg. – Sponsored by the Minister of Community Services	Winnipeg	*Guest	50
Reception for Prime Minister of Barbados	Winnipeg	*Special Guest	125
Health Sciences Centre PN2. Pincock Bldg. – Community Meeting	Winnipeg	The Role of the Ombudsman	10
Manitoba Natural Resources – Open House	Winnipeg	*Guest	100
The Manitoba Society of Criminology Annual Kick-off Breakfast	Winnipeg	*Guest	500
National Film Board of Canada – Preview Showing of *Foster Child*	Winnipeg	*Guest	125
Harambee Centres Canada Manitoba Region, Inc. – Annual Brunch	Winnipeg	*Extended Greetings	75
Portage Correctional Institution – Annual Tea and Open House	Portage la Prairie	*Guest	50
Race Relations Symposium Reception – City of Winnipeg Community and Race Relations Committee	Winnipeg	*Guest	25
Race Relations Symposium – City of Winnipeg Community and Race Relations Committee	Winnipeg	Human Rights and Visible Minorities	25
Barbados Association of Winnipeg – Annual Independence Banquet and Dance	Winnipeg	*Brought Greetings	225

The Canadian Ombudsman Conference

During 1987 the Canadian Ombudsman Conference was held in Edmonton, Alberta from September 13 to September 16, hosted by the Office of the Alberta Ombudsman. The Office of the Manitoba Ombudsman was pleased to have a role to play with our Assistant Ombudsman, Mr. Barry Tuckett, presenting a paper on the topic, Informal Resolution of Complaints and Assistance to Complainants with Non-Jurisdictional Concerns. This is an area where our office spends a significant amount of time, and we were pleased to be able to share some of our experiences with our colleagues and to hear from them how they handle such matters. Joining Mr. Tuckett in discussing the handling of informal and non-jursidictional concerns were Inger Hansen, Information Commissioner; D'Iberville Fortier, Commissioner of Official Languages; and Gail Morrison of the Ontario Ombudsman's Office.

A paper entitled, **Remedies for Maladministration: A Consideration of Appropriate Principles** was presented to the conference by John Frecker of the Law Reform Commission of Canada.

Of special interest were sessions concerning the protection of disadvantaged citizens. Here such topics were discussed as the protection of children, advocacy for the mentally ill, difficulties in assertion of rights to fair treatment faced by the poor and families in conflict.

The conference also included a session on Ombudsmen and the Charter of Rights and Freedoms examining such topics as jurisprudence and the Charter, i.e. how the courts are interpreting Charter sections and how Ombudsmen may apply them in the resolution of complaints. Also discussed was the relevance of the Charter to investigation of complaints by inmates in correctional facilities.

Finally, the conference looked at the question of, **"Do We Still Need the Ombudsman's Lamp of Scrutiny?"** with David Jones of the University of Alberta Law School and Michael Zacks of the Ontario Ombudsman's Office commenting about the principles of procedural fairness in government.

Apart from the names mentioned there were many others from various organizations, Ombudsman's Offices and other professions who contributed to make the conference meaningful and successful. Special thanks to our host Province, Alberta, and Particularly to the staff of the Alberta Ombudsman Office who worked very hard to produce a very effective conference.

Ombudsman Staff Workshop

An Ombudsman Staff Workshop was held in Vancouver, British Columbia on February 19 and 20, 1987. This workshop presented an opportunity for investigative staff members of Ombudsman Offices to get together and discuss concerns of mutual interest. The idea of a staff seminar or workshop evolved about two years ago, as it was felt that there should be an opportunity other than the Canadian Ombudsman Conference for staff of Ombudsman Offices to get together and learn from each other. Although some of the larger Ombudsman Offices in Canada (and some of the smaller offices to a lesser degree) were from time to time able to send Investigators to the Canadian Ombudsman Conference, generally speaking the Canadian Conference featured Ombudsmen, Assistant Ombudsmen and Solicitors to Ombudsmen and provided limited opportunity for investigative staff to examine issues among themselves in any detail. Hence in 1986 the Ontario Ombudsman Office hosted the first Staff Workshop which was so successful that it was determined that this become an annual event.

While the Manitoba Ombudsman Office, due to a heavy workload, was unable to participate in the 1986 Staff Workshop, we were able in 1987 to send two Investigators, Donna Drever and Joy Goertzen, to participate in the Vancouver seminar. Donna, our Investigator of Children's Concerns, made a presentation on **Outreach Programs for Children and Persons Under a Disability** while Joy was able to utilize her experience with worker compensation matters to present a topic entitled, **Calculation of Loss of Earnings — Inequities Exposed**.

There were many other issues discussed at this Ombudsman Staff Workshop including: Working Relationships with Authorities; The Ombudsman as Mediator, Negotiator, Problem Solver; Corrections Issues; The Charter; Ombudsman Oversight of Police Conduct; Privacy Issues; The Hostile, Vexatious, Manipulative or Resistant Complainant; Update on Institutions; Expropriation; and Health Issues. The workshop was not only a very busy one, but also according to our two Investigators who attended, a very worthwhile venture affording them the opportunity to meet with their colleagues from other parts of Canada and share in an exchange of ideas and information in a way which will ultimately benefit them as they carry on their investigative tasks in the Province of Manitoba. We extend our thanks to the Office of the British Columbia Ombudsman for organizing and hosting the Ombudsman Staff Workshop.

Complaint Statistics

Cases Brought Forward From the Previous Year

At the close of 1986, there were 337 cases still pending (6 of which were from 1983, 16 from 1984, 78 from 1985 and the remainder, 237, from 1986. The disposition of these cases are as follows:

Assistance Rendered 18

84-150-184 — Community Services and Corrections
84-240-1 — Environment and Workplace Safety and Health
85-150-90 — Community Services
85-220-1 — Education
85-310-16 — Housing
86-120-2 — Business Development and Tourism
86-140-27 — Community Services
86-140-38 — Community Services
86-140-117 — Community Services
86-140-132 — Community Services
86-150-8 — Consumer and Corporate Affairs
86-200-1 — Education
86-210-22 — Employment Services and Economic Security
86-210-25 — Employment Services and Economic Security
86-210-30 — Employment Services and Economic Security
86-350-53 — Manitoba Public Insurance Corporation
86-380-61 — Private Matters
86-410-5 — Workers Compensation Board

Declined 2

86-110-41 — Attorney General
86-130-4 — Civil Service Commission

Discontinued (Client) 25

86-110-45 — Attorney General
86-140-18 — Community Services
86-140-61 — Community Services
86-140-87 — Community Services
86-140-129 — Community Services
86-140-139 — Community Services
86-140-165 — Community Services
86-140-169 — Community Services
86-170-9 — Corporations and Extra Departmental
86-210-16 — Employment Services and Economic Security
86-210-29 — Employment Services and Economic Security
86-230-7 — Environment and Workplace Safety and Health
86-270-53 — Health
86-270-71 — Health
86-280-18 — Highways and Transportation
86-290-29 — Housing
86-290-37 — Housing
86-320-13 — Labour
86-330-6 — Municipal Affairs
86-350-52 — Manitoba Public Insurance Corporation
86-350-57 — Manitoba Public Insurance Corporation
86-360-7 — Natural Resources
86-360-9 — Natural Resources
86-360-11 — Natural Resources
86-410-21 — Workers Compensation Board

Discontinued (Ombudsman) 9

83-360-5 — Natural Resources
84-210-12 — Education
84-350-57 — Manitoba Public Insurance Corporation
85-240-2 — Energy and Mines
85-380-12 — Natural Resources
86-140-163 — Community Services
86-200-8 — Education
86-370-1 — Northern Affairs
86-410-12 — Workers Compensation Board

Information Supplied 12

85-230-4 — Employment Services and Economic Security
86-110-44 — Attorney General
86-140-109 — Community Services
86-140-133 — Community Services
86-140-153 — Community Services
86-140-173 — Community Services
86-270-7 — Health
86-270-59 — Health
86-290-38 — Housing
86-350-41 — Manitoba Public Insurance Corporation
86-410-20 — Workers Compensation Board
86-410-23 — Workers Compensation Board

Not Supported 81

85-120-23 — Highways and Transportation
85-150-70 — Community Services
85-150-103 — Community Services
85-150-121 — Community Services
85-150-138 — Community Services
85-150-140 — Community Services
85-180-18 — Corporations and Extra Departmental
85-230-8 — Employment Services and Economic Security
85-230-16 — Employment Services and Economic Security
85-230-26 — Employment Services and Economic Security
85-230-33 — Employment Services and Economic Security
85-240-3 — Energy and Mines
85-300-17 — Highways and Transportation
85-300-21 — Highways and Transportation
85-310-11 — Housing
85-310-38 — Housing
85-340-12 — Hydro
85-350-5 — Municipal Affairs
85-360-21 — Manitoba Public Insurance Corporation
85-380-16 — Natural Resources
85-430-29 — Workers Compensation Board
86-100-2 — Agriculture
86-100-5 — Agriculture
86-110-51 — Attorney General
86-140-33 — Community Services
86-140-40 — Community Services
86-140-82 — Community Services
86-140-85 — Community Services
86-140-94 — Community Services
86-140-95 — Community Services
86-140-116 — Community Services
86-140-123 — Community Services

86-140-130 — Community Services
86-140-143 — Community Services
86-140-148 — Community Services
86-140-149 — Community Services
86-140-150 — Community Services
86-140-151 — Community Services
86-140-154 — Community Services
86-140-166 — Community Services
86-150-4 — Consumer and Corporate Affairs
86-150-6 — Consumer and Corporate Affairs
86-170-3 — Corporations and Extra Departmental
86-170-4 — Corporations and Extra Departmental
86-170-7 — Corporations and Extra Departmental
86-190-2 — Culture, Heritage and Recreation
86-200-9 — Education
86-200-10 — Education
86-210-8 — Employment Services and Economic Security
86-210-10 — Employment Services and Economic Security
86-210-31 — Employment Services and Economic Security
86-260-1 — Government Services
86-270-40 — Health
86-270-50 — Health
86-270-69 — Health
86-270-75 — Health
86-280-4 — Highways and Transportation
86-280-10 — Highways and Transportation
86-280-16 — Highways and Transportation
86-280-20 — Highways and Transportation
86-290-7 — Housing
86-290-8 — Housing
86-290-9 — Housing
86-290-21 — Housing
86-290-30 — Housing
86-290-31 — Housing
86-290-33 — Housing
86-290-36 — Housing
86-290-39 — Housing
86-320-10 — Labour
86-350-38 — Manitoba Public Insurance Corporation
86-350-43 — Manitoba Public Insurance Corporation
86-350-45 — Manitoba Public Insurance Corporation
86-350-50 — Manitoba Public Insurance Corporation
86-350-54 — Manitoba Public Insurance Corporation
86-350-58 — Manitoba Public Insurance Corporation
86-360-1 — Natural Resources
86-360-6 — Natural Resources
86-410-14 — Workers Compensation Board
86-410-17 — Workers Compensation Board
86-410-30 — Workers Compensation Board

Resolved 54

83-290-49 — Housing
83-370-1 — Northern Affairs
84-300-44 — Housing
84-330-2 — Hydro
84-390-18 — Natural Resources
85-120-29 — Boards, Commissions and Committees
85-150-86 — Community Services

85-220-9 — Education
85-230-38 — Employment Services and Economic Security
85-250-5 — Environment and Workplace Safety and Health
85-290-23 — Health
85-290-62 — Health
85-300-9 — Highways and Transportation
85-310-27 — Housing
85-310-42 — Housing
85-310-47 — Housing
85-390-1 — Northern Affairs
86-110-48 — Attorney General
86-120-1 — Business Development and Tourism
86-140-4 — Community Services
86-140-55 — Community Services
86-140-93 — Community Services
86-140-100 — Community Services
86-140-103 — Community Services
86-140-110 — Community Services
86-140-112 — Community Services
86-140-118 — Community Services
86-140-158 — Community Services
86-140-171 — Community Services
86-140-172 — Community Services
86-150-7 — Consumer and Corporate Affairs
86-170-8 — Corporations and Extra Departmental
86-210-18 — Employment Services and Economic Security
86-230-11 — Environment and Workplace Safety and Health
86-270-44 — Health
86-270-70 — Health
86-280-6 — Highways and Transportation
86-280-19 — Highways and Transportation
86-290-14 — Housing
86-290-35 — Housing
86-300-14 — Hydro
86-320-9 — Labour
86-320-12 — Labour
86-330-7 — Municipal Affairs
86-350-34 — Manitoba Public Insurance Corporation
86-350-35 — Manitoba Public Insurance Corporation
86-350-37 — Manitoba Public Insurance Corporation
86-350-40 — Manitoba Public Insurance Corporation
86-350-48 — Manitoba Public Insurance Corporation
86-350-55 — Manitoba Public Insurance Corporation
86-350-59 — Manitoba Public Insurance Corporation
86-360-8 — Natural Resources
86-410-7 — Workers Compensation Board
86-410-22 — Workers Compensation Board

Recommendation 1

85-110-47 — Attorney General

Pending 135

83-220-3 — Environment and Workplace Safety and Health
83-280-40 — Highways and Transportation
83-360-8 — Natural Resources
84-100-4 — Agriculture
84-100-8 — Agriculture
84-100-9 — Agriculture

84-150-69 — Community Services and Corrections
84-300-39 — Housing
84-350-56 — Manitoba Public Insurance Corporation
84-350-58 — Manitoba Public Insurance Corporation
84-400-3 — Northern Affairs
84-460-26 — Workers Compensation Board
85-120-4 — Boards, Commissions and Committees
85-120-6 — Boards, Commissions and Committees
85-120-8 — Boards, Commissions and Committees
85-120-11 — Boards, Commissions and Committees
85-120-21 — Boards, Commissions and Committees
85-120-24 — Boards, Commissions and Committees
85-120-31 — Boards, Commissions and Committees
85-120-35 — Boards, Commissions and Committees
85-150-14 — Community Services
85-150-29 — Community Services
85-150-87 — Community Services
85-150-110 — Community Services
85-150-122 — Community Services
85-150-129 — Community Services
85-150-139 — Community Services
85-150-150 — Community Services
85-230-24 — Employment Services and Economic Security
85-230-32 — Employment Services and Economic Security
85-230-36 — Employment Services and Economic Security
85-290-9 — Health
85-290-25 — Health
85-290-52 — Health
85-290-67 — Health
85-290-103 — Health
85-300-19 — Highways and Transportation
85-310-3 — Housing
85-310-52 — Housing
85-330-5 — Labour
85-340-5 — Hydro
85-360-12 — Manitoba Public Insurance Corporation
85-360-20 — Manitoba Public Insurance Corporation
85-360-32 — Manitoba Public Insurance Corporation
85-360-34 — Manitoba Public Insurance Corporation
85-360-60 — Manitoba Public Insurance Corporation
85-370-10 — Municipalities, Cities, Towns, Etc.
85-380-13 — Natural Resources
85-430-1 — Workers Compensation Board
85-430-17 — Workers Compensation Board
86-100-3 — Agriculture
86-110-7 — Attorney General
86-110-20 — Attorney General
86-110-26 — Attorney General
86-110-32 — Attorney General
86-110-33 — Attorney General
86-110-39 — Attorney General
86-110-47 — Attorney General
86-110-49 — Attorney General
86-130-1 — Civil Service Commission
86-140-3 — Community Services
86-140-10 — Community Services
86-140-14 — Community Services
86-140-15 — Community Services

86-140-16 — Community Services
86-140-51 — Community Services
86-140-52 — Community Services
86-140-57 — Community Services
86-140-68 — Community Services
86-140-77 — Community Services
86-140-79 — Community Services
86-140-89 — Community Services
86-140-91 — Community Services
86-140-92 — Community Services
86-140-108 — Community Services
86-140-115 — Community Services
86-140-120 — Community Services
86-140-121 — Community Services
86-140-127 — Community Services
86-140-141 — Community Services
86-140-142 — Community Services
86-140-147 — Community Services
86-140-152 — Community Services
86-140-156 — Community Services
86-140-164 — Community Services
86-140-170 — Community Services
86-150-2 — Consumer and Corporate Affairs
86-200-7 — Education
86-210-2 — Employment Services and Economic Security
86-210-15 — Employment Services and Economic Security
86-270-17 — Health
86-270-56 — Health
86-270-65 — Health
86-280-7 — Highways and Transportation
86-280-21 — Highways and Transportation
86-280-23 — Highways and Transportation
86-290-3 — Housing
86-290-4 — Housing
86-290-6 — Housing
86-290-15 — Housing
86-290-17 — Housing
86-290-19 — Housing
86-290-26 — Housing
86-290-34 — Housing
86-300-6 — Hydro
86-320-1 — Labour
86-320-7 — Labour
86-320-11 — Labour
86-330-2 — Municipal Affairs
86-330-3 — Municipal Affairs
86-330-5 — Municipal Affairs
86-350-1 — Manitoba Public Insurance Corporation
86-350-2 — Manitoba Public Insurance Corporation
86-350-3 — Manitoba Public Insurance Corporation
86-350-7 — Manitoba Public Insurance Corporation
86-350-12 — Manitoba Public Insurance Corporation
86-350-17 — Manitoba Public Insurance Corporation
86-350-19 — Manitoba Public Insurance Corporation
86-350-20 — Manitoba Public Insurance Corporation
86-350-22 — Manitoba Public Insurance Corporation
86-350-28 — Manitoba Public Insurance Corporation
86-350-30 — Manitoba Public Insurance Corporation

86-350-36 — Manitoba Public Insurance Corporation
86-350-44 — Manitoba Public Insurance Corporation
86-350-47 — Manitoba Public Insurance Corporation
86-350-49 — Manitoba Public Insurance Corporation
86-350-51 — Manitoba Public Insurance Corporation
86-350-56 — Manitoba Public Insurance Corporation
86-350-61 — Manitoba Public Insurance Corporation
86-360-3 — Natural Resources
86-360-10 — Natural Resources
86-380-40 — Private Matters
86-410-9 — Workers Compensation Board
86-410-27 — Workers Compensation Board
86-410-29 — Workers Compensation Board

From the above, it is noted that of the 337 cases brought forward from the last reporting year, 202 (60%) were concluded during this reporting year with 135 (40%) being carried over into 1988.

Disposition of 1987 Complaints

Assistance Rendered	51
Declined	30
Discontinued (Client)	85
Discontinued (Ombudsman)	15
Information Supplied	186
Not Supported	134
Pending	177
Resolved	79
TOTAL	**757**

Looking at the disposition of the complaints received in 1987, we note that 580 or 77% were completed during the year. Of that number, 316 or 55% were in the categories Assistance Rendered, Information Supplied and Resolved.

The number of cases carried over to 1988 was 177 or 23% of the cases received during the year. This is somewhat lower than the 35% caseload which was carried over from 1986 to 1987. This can be attributed to the fact that during the last three months of the year we had a full complement of six Investigators.

There was only a small number of cases which the Ombudsman declined to investigate, namely 30, which represents 4% of the total number of cases received.

Of the cases received during the year, 100 or 13% were discontinued either by the Ombudsman or the client.

Finally, of the cases completed, we note that 134 or 23% were not supported

Complaints Attributed to each Department or Category

Rank	Department or Category	Number of Complaints	Percentage of Total (Approximately)	Number of Complaints Up From Last Year (+) Down From Last Year (–)
1	Community Services	181	23.91%	+
2	Health	108	14.27%	+
3	Private Matters	72	9.51%	+
4	Manitoba Public Insurance Corporation	68	8.98%	+
5	Attorney General	57	7.53%	+
6	Employment Services and Economic Security	44	5.81%	+
7	Housing	42	5.55%	+
8	Workers Compensation Board	32	4.23%	+
9	Highways and Transportation	22	2.91%	–
10	Natural Resources	18	2.38%	+
11	Corporations and Extra-Departmental	15	1.98%	+
12	Labour	14	1.85%	+
13	Municipalities, Cities, Towns, Etc.	13	1.72%	+
14	Manitoba Hydro	12	1.59%	–
15	Education	10	1.32%	same
16	Agriculture	9	1.19%	+
17	Consumer and Corporate Affairs	8	1.06%	same
18	Environment and Workplace Safety and Health	7	0.92%	–
19	Federal Departments and Agencies	6	0.79%	–
20	Civil Service Commission	5	0.66%	+
21	Municipal Affairs	3	0.40%	–
	Finance	3	0.40%	–
22	Government Services	2	0.26%	+
	Business Development and Tourism	2	0.26%	same
23	Culture, Heritage and Recreation	1	0.13%	same
	Northern Affairs	1	0.13%	same
	Energy and Mines	1	0.13%	–
	Industry, Trade and Technology	1	0.13%	+
	Total	**757**	**100.00%**	

Complaints by the Year

Year	Written Complaints	Telephone Enquiries	Total of Written Complaints and Telephone Enquiries
1970	333	—	333
1971	396	—	396
1972	487	—	487
1973	441	—	441
1974	641	—	641
1975	651	—	651
1976	596	—	596
1977	606	—	606
1978	543	—	543
1979	531	—	531
1980	510	—	510
1981	526	—	526
1982	551	348	899
1983	728	1,179	1,907
1984	807	1,275	2,082
1985	858	1,826	2,684
1986	674	1,347	2,021
1987	757	3,261	4,018
Totals	**10,636**	**9,236**	**19,872**

Sources of Complaints

Altona	1
Anola	2
Arborg	2
Ashville	1
Balmoral	1
Beausejour	4
Benito	1
Birds Hill	1
Brandon	49
Carlowrie	1
Carman	2
Dallas	1
Dauphin	4
Deloraine	1
Elie	1
Elm Creek	1
Emerson	1
Erickson	2
Eriksdale	1
Flin Flon	3
Garland	1
Gillam	1
Gladstone	1
Glenlee	1
Hadashville	2
Headingley	47
Killarney	1
Kola	1
Lac du Bonnet	2
Landmark	1
Little Grand Rapids	1
Lorette	1
Lundar	3
Manigotogan	1
Miniota	1
Minitonas	1
Morden	1
Morris	1
Nelson House	1
Oak Bluff	1
Oakbank	1
Oakville	1
Ochre River	1
Olha	1
Onanole	1
Otterburne	1
Petersfield	2
Pikwitonei	1
Pinawa	1
Pine Falls	3
Pine River	2
Portage la Prairie	11
Rapid City	1
Reston	1
Ridgeville	1
Ritchot	1
Riverton	1
Roblin	4
Rossburn	2
Sandy Hook	2
Scanterbury	1
Selkirk	30
Shamattawa	1
Shellmouth	1
Shilo	1
Shoal Lake	2
Sifton	1
Souris	3
Ste. Anne	1
Ste. Rose du Lac	1
Steinbach	1
Stonewall	1
The Pas	11
Thompson	1
Treherne	2
Tyndall	1
Virden	2
Vita	1
Warren	1
Winkler	2
Winnipeg	465
Winnipeg Beach	1
Winnipegosis	1
Woodlands	1
Subtotal	**722**
Out of Province	
Alberta	4
British Columbia	10
New Brunswick	1
Ontario	10
Quebec	2
Saskatchewan	6
Texas, U.S.A.	1
Wisconsin, U.S.A.	1
Subtotal	**35**
Total	**757**

Selected Case Summaries

Cases Involving Children

86-140-156 Manitoba Community Services

Alleges social worker did not take proper steps to prevent his son from being abused.

As I have explained in past Annual Reports, there are different approaches we may use when we receive a complaint from someone regarding a Child and Family Services agency. We may make informal inquiries to obtain clarification on the concerns raised; we may refer the individual to the Executive Director of the agency or the Board of Directors; we may refer the matter to the Department of Community Services; or we may investigate directly. The decision on what approach will be taken depends on the nature of the complaint presented, what action has occurred prior to the complainant contacting our office, and the emergency of the situation.

In this particular case, our complainant wrote a letter to my office complaining that a Social Worker of a Child and Family Services agency did not take proper steps to prevent his son from being abused. Our complainant reported that his son had been seriously injured by the child's mother, from whom the complainant was separated. He had custody of his son but at the time the injury occurred he had left the mother babysitting the child.

The family had been known to a Child and Family Services agency. The mother had a history of psychiatric problems and there was also some indications of marital problems. The child had in fact been apprehended on at least two occasions when he was in the mother's care and the mother was not well and seemed unable to look after the child physically. On both occasions the child had been returned to his father. There was no history of physical abuse of the child but the concerns related to the mother's capacity to care adequately for the child, particularly when she was not functioning well.

The child's mother had been receiving psychiatric follow-up in the community. Our complainant believed that the Child and Family Services agency was aware that there were concerns about his wife's competency to care for the child. He believed the incident could have been avoided if the agency had provided him with information that his son might be in danger if left in the mother's care.

The letter sent to my office was also copied to the Minister of Community Services and the Director of Child and Family Services for the Province. Prior to initiating an investigation into the concerns raised, we consulted with the Department of Community Services to see what action they were taking. It was determined that an initial review would be conducted through the Department. Our complainant was advised of this and that he could contact us again if he had any concerns after that review was completed.

Our complainant subsequently received a letter from the Director of Child and Family Services. He was advised that the Department's Office of Child and Family Support had reviewed all of the agency files and other relevant files and, as well, had interviewed professionals involved with the family. It was the conclusion of the Office of Child and Family Support that neither the worker nor the agency were negligent based upon The Child Welfare Act which was in effect at the time. There had been some concerns about the mother's overall ability to parent but it was reported that no one could have predicted the violence which had occurred. It was stated that with the benefit of hindsight, the agency could have provided closer follow-up, particularly after the previous apprehension. However, the agency had wanted to provide the father with the opportunity to parent the child on his own. Nevertheless, they felt the attack was so unpredictable it could not be anticipated and it was unlikely it could have been prevented. After receiving the Department's letter, the complainant then wrote to our office and indicated that he did not feel his concerns had been adequately addressed and requested we review the matter further.

We pursued the complainant's concerns with the Office of Child and Family Support of the Department of Community Services. Based upon the information received, we were of the opinion that the Office of Child and Family Support had conducted a comprehensive review of the complaint which had been presented, addressing all the issues which had been raised. There were no grounds for us to state that the conclusions reached by the Office of Child and Family Support as a result of their review could be considered clearly wrong or unreasonable. We agreed with their comment that in hindsight, the agency could have provided closer follow-up, particularly after the child had been apprehended.

In summary, we could not support our complainant's position that the Department of Community Services did not adequately or thoroughly investigate his complaint. However, from our review, we did have some specific concerns with respect to the adequacy of the follow-up provided by the Child and Family Services agency to this family. We felt it would have been appropriate for the agency to have been more closely involved with the family from the time of the child's birth, even though the parents felt that no assistance was required. We realize that the issue of adequate resources and sufficient staff to provide intensive follow-up and intervention with families is a practical reality for agencies. The lack of resources can make it difficult to provide the kind of monitoring a family such as this may have required.

It is my opinion that the services and resources necessary to protect children and help families must be provided. If these resources are not available and families at risk do not get the services or assessment they require then children will continue to be hurt or killed. I realize that there are no absolute assurances that tragedies will not occur. However, I cannot reinforce enough the importance and necessity of workers doing thorough, accurate assessments of families to determine potential for abuse and provide appropriate and timely intervention. As well, there must be manageable case loads for workers to be able to monitor and follow-up with families in order to provide supportive and preventative services.

The Department of Community Services is currently in the process of developing a Program Standards Manual. We trust that having comprehensive standards and guidelines will assist in addressing the issues around assessing risk and particularly closing cases in situations where parents or care givers reject, or do not perceive a need for, service. Needless to say, standards and guidelines will not achieve maximum results if there are not sufficient financial and human resources for effective implementation.

87 140-106

Manitoba Community Services

Youth feels cost of dental work should be covered by Child and Family Services agency.

Occasionally, when reviewing a concern which is brought to our attention, it is necessary for us to obtain information from more than one Provincial Government department or agency in order to be able to fully understand and assess the complaint.

In this particular case, we were contacted by a young lady in September, 1987. She advised that due to family difficulties she had left her home and come into care of a Child and Family Services agency from January until July, 1987 when she turned 18 years of age. However, prior to her 18th birthday, she required dental work which involved a root canal. Due to the family problems, she indicated that financial assistance was not available from her mother and step father. She reported that her dentist was advised of the appropriate forms which needed to be submitted to the Social Allowances Health Services Dental Program for authorization to cover the cost of the dental work. However, she stated that her dentist had not submitted the request until after her health services card had expired upon her 18th birthday.

Our complainant advised that she was living independently and was working to support herself. However, her income did not allow for any extra costs such as the dental work she required. She advised that her Child and Family Service worker had also made attempts to get the dentist to submit the forms prior to the cancellation of her health card but had been unsuccessful.

Inquiries were made both with the Child and Family Services agency and the Social Allowances Program, Department of Employment Services and Economic Security.

The Child and Family Services worker confirmed that he had contacted the dentist and advised him of the application which had to be made to the Social Allowances Program. However, this had not been done prior to the end of July, 1987 when our complainant lost her eligibility for the Health Services.

It was also confirmed, through the Social Allowances Program, that the request from the dentist had not been received until August 13, 1987. Our complainant had qualified for the Social Allowances Health Services benefits as she was a ward of Child and Family Services. However, once a ward turns 18 years of age, any ongoing eligibility is dependent upon their categorical eligibility for social allowances as an adult. Our complainant did not qualify for assistance as her contract had expired prior to receipt of the request from the dentist. While the Provincial Social Allowances Program stated they were unable to be of further assistance, it was suggested that the City of Winnipeg, Social Services Department, might be able to assist if our complainant did not have sufficient resources to meet her needs.

On further discussion with the Child and Family Services agency, we were also advised that she would be issued an Age of Majority Allowance. Although the Age of Majority Allowance was not sufficient to cover the total cost of the dental work, it should help offset some of the expenses as a result of her independent living situation.

The Investigator (Children's Concerns) discussed the information received from the Social Allowances Program and the Child and Family Services agency with our complainant. It was explained that we did not have sufficient grounds to recommend that either Department assume the total cost of her dental work. However, we expressed our hope that the financial assistance received through the Age of Majority Allowance might help offset some of her other expenses as a result of living independently. Our Investigator also discussed other areas she could possibly pursue for assistance. As well, the complainant's Child and Family Services worker had indicated his availability to assist her with applications to other programs. Our file was concluded as there did not appear to be any further action required by our office.

87-140-107 Manitoba Community Services

Youth requesting assistance with family problems.

An individual telephoned our office one day and initially presented some concerns which appeared to be medically related. Because it sounded like a young person phoning, the call was put through to the Investigator for Children's Concerns.

Initially the caller was presenting some general concern related to her doctor and some medical problems. However, as the Investigator pursued the matter further, she found out the caller was 14 years of age and reportedly experiencing some family difficulties. She confirmed she had previously been involved with a Child and Family Services agency but stated her case had been closed because her mother didn't want any involvement from the agency. She stated she did not feel that anyone in the Child and Family Services agency wanted to help her or that anything would be done unless somebody else contacted the agency on her behalf. She stated she would like to have a Child and Family Services worker visit her.

The Investigator did not go into a great deal of detail regarding the family problems as she was aware that the youth was calling from a public telephone in a restaurant close to her school. The youth was advised that the Investigator would phone the agency on her behalf and discuss her request to see a worker. Arrangements were made for the Investigator to call the girl at her school to inform her of what transpired. Contact was made with the agency and the Investigator spoke with a representative from the Executive Director's office. The information received from the youth was shared with the agency. The agency could not guarantee anyone could meet with the youth that day due to a high number of new intakes they had received. However, it was reported that someone would try to make contact with her. The Investigator then contacted our caller at school and advised her someone would be in touch with her. The youth did not indicate that she had any concerns about her safety in returning home.

The Investigator received a telephone call from the girl's previous Child and Family Services worker later in the afternoon. The worker confirmed that she had previously been involved extensively with the youth and her parents. The information provided to the Investigator was that apprehension had been previously considered but there were no suitable community resources. It was felt that it would be the least detrimental to the child to leave her in the family situation. She also confirmed that the mother had been upset when it came to her attention that family counselling was suggested. At that point the mother apparently did not want any more contact with the worker. The file was subsequently closed but the girl had been referred to an outside agency for counselling.

The worker also provided background information on the family which suggested that it was quite a dysfunctional family. However, it was reported that there was no indication of any physical or sexual abuse occurring within the family. It also appeared to be a family that was quite difficult to deal with and there were many behavioural issues with the child involved. Although the file had been closed, the worker confirmed that she would be in contact with the girl to re-assess the current situation.

In follow-up contact with the agency, the Investigator was satisfied that the agency was again actively involved in the family situation. A plan was being developed which included obtaining a comprehensive family assessment. Discussions were also being held with the family with respect to the alternatives if they did not comply and co-operate in a treatment plan.

As the agency was following up with the family and developing plans, there did not appear to be any further follow-up required by our office. However, prior to concluding the file the Investigator did have some discussion with the supervisor regarding the issue of case closures, particularly when there are outstanding concerns about how well a family is functioning. We realize that community resources are an ongoing issue for agencies to deal with. However, my position is that cases should not be closed when there are indications of serious family problems which require intervention.

As a postscript to this case, the Investigator received a telephone call a few months later from a woman complaining about a Child and Family Services agency apprehending her daughter. In further discussion it turned out that the caller was the mother of our young complainant. The mother also expressed concern about the placement resource where the child was living.

Due to the concerns the mother was presenting, further contact was made with the agency and it was confirmed that the youth had been apprehended by the agency. Based upon their previous involvement and assessments it was determined that apprehension was appropriate at this point in time.

The mother was contacted and advised that we did not find the action of the agency wrong or unreasonable and if she disputed the decision regarding the apprehension, that should be dealt with by the Court and it was suggested that she may wish to consult with a lawyer. The mother was also encouraged to contact the supervisor directly with respect to specific concerns she had regarding the placement resource. As well, we advised the supervisor that the mother had some concerns in this area and would be pursuing them with him.

This case is an example of how our office listens objectively to any party who may contact us and how we take steps to ensure that issues are addressed, even if we cannot support the complainant's position.

87-140-122 Manitoba Community Services

Concerns over apprehension of daughters by Child and Family Services agency.

When we receive complaints from parents regarding an act or decision of a Child and Family Services agency or of a worker who may be involved with their family, we first encourage them to take their complaint to the attention of the supervisor or Executive Director of the agency if they have not done so. Sometimes complainants phone not only our office but several other offices concerning the same problem. We try to avoid duplicating efforts, while still remaining accessible to listen to people's concerns.

In this particular case a mother contacted our office expressing concern that her two daughters had been apprehended as a result of allegations of sexual abuse which had been made against her common-law husband. Her concerns related to lack of information regarding the allegations and the reasons for apprehension of her daughters. She reported that her daughters had been apprehended three weeks previously and she was denied visiting privileges. She also advised that the agency had not given her information with respect to the date of a Court hearing which had been scheduled for later that month.

The complainant apparently had discussed some, but not all of the concerns with the supervisor and the Executive Director of the agency. It was suggested that she should contact the Executive Director of the agency again to discuss her concerns further and also inquire as to whether or not there was available an appeal to the Board of Directors to discuss her service complaints. She indicated she was prepared to make further contact with the agency.

Our complainant telephoned the Investigator for Children's Concerns the next day, stating that she had talked to the supervisor of the agency. As well, she had contacted the Director of Child and Family Services, Office of Child and Family Support, Department of Community Services, who telephoned the agency and arranged for her to meet with the supervisor to go over her concerns. Our Investigator incidentally had received a telephone call from the Director of Child and Family Services confirming that our complainant had attended at his office and he had arranged a meeting for her with the agency. Our Investigator suggested to our complainant that she meet with the supervisor as arranged.

The complainant telephoned our office after her meeting with the supervisor. She was still expressing dissatisfaction, feeling the supervisor was not prepared to listen to her. She also raised some new issues regarding a plan to transfer one of her daughters to a new school close to the foster home where this daughter was living. She felt this would be too disruptive for her daughter as she was anticipating that she would regain custody of her children soon.

At this stage the complainant had met with the supervisor but had not gone to the level of the Executive Director. The Investigator again explained the process to her and attempted to point out that she should follow that route as it might confuse the issue more for her if she kept phoning several different offices regarding her complaints. She had no objections to continuing the process at the agency level.

In order to assist our complainant as well as clarify our role in this matter, the Investigator wrote a letter to the Director of Child and Family Services summarizing the concerns, our involvement, and the information we had given to our complainant. A copy of this letter was sent to the Executive Director of the agency and the complainant to avoid any misunderstandings. The complainant was made aware that she could contact our office again if she did not feel her concerns were adequately addressed and we could re-assess the situation at that time.

Nothing further was heard from the complainant until approximately one month later. At that time she advised the Investigator that she had received a letter from her lawyer outlining the reasons why the children had been apprehended. However she disagreed with those reasons. It was suggested that as she had received the letter from her lawyer, it might be more appropriate for her to contact the lawyer to discuss the matter.

This case illustrates the importance of our office being available not only to hear and investigate people's grievances, but also to encourage and assist people in utilizing the proper avenues of appeal and the resources available.

87-140-156 Manitoba Community Services

Unhappy with counselling services of Child and Family Services worker.

My office accommodates individuals who drop in to discuss a particular complaint or concern they may have against a Provincial Government department or agency. In this particular case, a man and his wife met with the Investigator (Children's Concerns) to discuss their involvement with a Child and Family Services agency.

The information provided was that the father had recently been charged with sexually assaulting his daughter and two other girls. He advised the incidents had occurred approximately 4 years previously, but had only been disclosed in the summer of 1987. He stated he had gone voluntarily to the Police to give a statement after the allegations were made. He reported he had since enrolled in a counselling program and he and his wife reported that they were working out their own personal problems and were getting a lot of support through their church. He had also moved out of the family home where he had lived with his wife and two children. Although not living physically in the same home he was still living on the same piece of property in very close proximity to the family home. The wife reported that she believed her daughter's allegations and would not put her at further risk. However, she felt she could still protect her daughter and support her husband at the same time. Their daughter was now 16 years of age. They also had a teenage son living at home.

At the time they attended our office, the husband had been living outside the family home for a few months. The situation was also being monitored through the local Child and Family Services agency. However, the wife reported her dissatisfaction with the intervention and services she was receiving from the agency worker. She reported that neither she nor her daughter were comfortable with the worker. She felt that in their "counselling sessions" the worker was intimidating and threatening. She reported the worker yelled at them and she did not feel that he believed her or the daughter, when they said the offence was not recurring. She also believed that he was trying to break up the family unit and claimed that he made derogatory remarks about her husband during the sessions. It was her opinion that the comments she reported he made were destructive rather than helpful. As a result, the mother and daughter did not want to engage in any further counselling sessions with that worker. They apparently had requested that they be allowed to obtain counselling through a resource of their choice.

The husband presented a letter which was addressed to the agency which he stated he had delivered to the worker the previous day and which outlined their concerns. Again, he reported that in his contact with the worker, some uncomplimentary remarks were made about him.

What had brought the problem to a head as far as the family was concerned was that the agency had recently learned that the wife was spending the nights with her husband. Apparently she would leave the house after the teenage children were asleep and would return early in the morning before they were awake. As a result, the agency was reportedly threatening to apprehend their daughter.

The Investigator discussed the role of our office and inquired as to whether they had brought their concerns to the attention of the Executive Director of the agency. They had discussed their concerns with the worker's supervisor and believed the Director was also aware of the situation. It was suggested that prior to pursuing the issue through our office, they should contact the Executive Director directly regarding their complaint. If the Executive Director was not prepared to review the matter further or if they were still dissatisfied, they could contact our office again. The couple agreed to do this but requested that our Investigator also contact the Executive Director and advise that they had been to our office.

The Investigator was in contact with the Executive Director of the agency the same day. She advised him of the letter received and the general concerns presented by the couple. The Executive Director was aware of the situation and of the letter that had been sent to the worker. The Executive Director was prepared to hear the concerns directly from the couple. Our complainants were notified of this and told that if they had any further concerns following their discussion they could get in touch with us again.

The Investigator subsequently received a telephone call from the husband. He advised that they had met with the Executive Director of the agency and the worker's supervisor. He stated they were very pleased with the results of the meeting and that they had accomplished much more than anticipated. He reported that the meeting was conducted in a courteous, calm and reasonable manner. He reported they had mutually agreed upon the following plan: a) the mother and daughter could get counselling of their choice; b) the family was to see a psychologist and based on the assessment, decisions about the family living arrangements would be made; and c) a female worker from the agency would continue to monitor the situation and visit the family home.

The husband felt that the contact with the Executive Director of the agency had resolved their immediate concerns and he did not feel any further action was required through our office.

87-140-179 Manitoba Community Services (Corrections)

Residents of youth centre alleging lack of heat in rooms.

In late December, 1987, residents at a detention centre wrote a letter to me complaining about the heat in their rooms. They reported that they were "being subjected to temperatures, close to or below 0". They also stated they felt the staff at the youth centre were trying to get the heat in the area but had little success. The letter was signed by several residents but they requested that their names be withheld. The Investigator (Children's Concerns) made immediate contact with the Superintendent of the youth centre involved. It was confirmed that many of the living areas were very cold and that it was an ongoing problem. In fact, it was reported that the Superintendent had ordered approximately 200 extra blankets to supply to the residents in anticipation of the cold winter weather. The Investigator was advised that Government Services had been contacted and the Superintendent was pursuing the matter further. We requested to be advised of the results.

The Superintendent was in further contact with our office and the initial information received was that insulation of the building was a major factor. The rooms were very cold due to the low outside temperature and the poor insulation. They were attempting to let warm air into the bedrooms during the day to try and alleviate the situation.

A request was made by our office that temperature readings be taken to determine how cold it actually was in the sleeping areas. As well, the Investigator made arrangements to tour the cottage which had initiated the complaint to my office. At the time of the tour, the Investigator was advised by the Superintendent that the temperature readings ranged from 61 to 66 degrees Fahrenheit.

On the tour the Investigator found the bedroom areas to be very cold. It was also noted that there were some vacant bedrooms in the cottage which seemed to be warmer. The possibility was discussed with the Superintendent of moving the residents from the coldest rooms to the warmer rooms. As well, additional wool blankets were to be supplied to the residents. The information received at the time of the tour also indicated that this was not a new problem at the centre. It was reported that the cost of insulating was considered to be very expensive.

As the residents had requested anonymity, the Investigator had a general meeting with those who were present at the time of her visit. She explained what action had been taken by the Superintendent of the youth centre and our office as a result of the concerns they raised.

Following the tour of the centre, the Investigator also brought the concerns to the attention of the Executive Director, Community and Youth Correctional Services. It was agreed that he would pursue the matter further with the Department of Government Services.

We also obtained information from the City Health Department. We were advised that the acceptable standard to be maintained in a residence was 70 degrees Fahrenheit during the day and 65 degrees Fahrenheit at night. Night time was defined as 11:00 p.m. to 7:00 a.m. Therefore, it certainly appeared that the temperatures in the centre were not meeting the established standards.

It is no secret to anyone who lives in Manitoba that our winters can be very cold and harsh. Therefore, if inadequate insulation was a contributing factor to the problem and even if expenses were considered prohibitive, it was our opinion that steps needed to be taken to address the issue and an interim solution found to improve the conditions and temperature levels. Our position on this matter was confirmed in writing to the Department.

Our office was subsequently advised that the Property Management Division, Manitoba Government Services, was actively working to provide a permanent solution to the problem of low space temperatures in some of the perimeter bedrooms. It was reported that the problem occurred in some of the perimeter rooms when the outside temperatures were very cold. In the problem areas, the forced-air heating system was not delivering enough heat to offset losses due to air infiltration and conduction losses through the bare block walls. To correct the problem, the operation staff and technical engineering section were boosting and/or adjusting air flows, calibrating controls, etc. The heating and ventilation system was going to be set up to provide adequate heating in all areas.

We were also provided with a chart showing the room temperatures in one particular area of the centre. On one day in February when the temperature outside was -29 degrees, the temperature inside some of the bedrooms was registering between 50-55 degrees Fahrenheit. However, the chart also showed that over the next few days there was progressive improvement in raising the room temperatures. We were advised that the corrective action taken would be extended to the total youth centre.

We also received a very nice note from a resident, thanking my office for the efforts made to improve the heating conditions at the Manitoba Youth Centre. The youth writing the letter stated he was very impressed at the speed and care taken by our office in handling the matter.

I was also pleased with the prompt corrective action that was taken by the Departments following our inquiry into this problem. However, I must admit it is difficult for me to understand why a permanent solution had not been found prior to our office initiating an inquiry on the matter as it had been a longstanding problem.

Nevertheless, it appears that the problem was rectified and our file was concluded as resolved.

Other Cases

85-110-47 Manitoba Attorney General

Concerned that Legal Aid may have acted improperly in handling case.

The complainant in this case reported that his former wife had received assistance from Legal Aid Manitoba with regard to two Court proceedings involving one of their children. The first proceeding related to the issue of custody. The second proceeding, which was commenced approximately six months later, was in relation to an application for child support for their son who was turning seventeen years of age the following month. It was our complainant's position that both matters should have been dealt with in one proceeding. He felt that the granting of two separate applications by Legal Aid had unnecessarily increased his own legal expenses.

Prior to contacting our office, the complainant had lodged a complaint with the Department of the Attorney General. He reported to my office that he was advised by the Department of the Attorney General that the second proceeding was commenced on the advice of counsel as a result of new information being made available. He did not believe that any new information had come forward and felt he had been treated unfairly. He advised that two separate applications resulted in repeated litigation and excessive legal expenses for himself.

The complainant reported that he had been separated from his wife for approximately eight years and divorced for four years. His former wife had remarried the same year that they were divorced. It was reported that he had never been required to make any maintenance payments since the time of the separation. It was also noted that the application for maintenance had been dismissed and in the judgment delivered, the Judge raised some questions with respect to the actual financial resources available to our complainant's former wife. The Judge concluded that she had more income or assets available to her than she had disclosed.

During the course of our investigation, the Legal Aid files pertaining to this case were reviewed and a report received. In addition, interviews were held with the Director of Legal Aid as well as the Area Director who had made the decision granting legal aid on the wife's second application. After carefully considering all of the information received from the Legal Aid Services Society as well as from our complainant, I was of the opinion that our complainant had presented a justifiable grievance with respect to the decision to provide his former wife with legal aid regarding the application for maintenance. It was my opinion that this decision could be considered oppressive and had caused the complainant undue financial hardship. As a result, I recommended that **our complainant be reimbursed the amount of his legal costs associated with the application for maintenance for his son**. This recommendation was sent to the Executive Director of Legal Aid Manitoba.

I received a lengthy letter from the Executive Director of Legal Aid with respect to my report. I also had a meeting with the Executive Director to discuss our respective positions further. At this point we were dealing with a new Executive Director, who incidentally had previously been the Area Director who had made the decision which gave rise to the complaint.

To summarize, the Executive Director of Legal Aid did not agree with my recommendation and felt that Legal Aid was not responsible to pay our complainant's costs because they acted in good faith, without bias or malice. It was acknowledged that an error had been made in Legal Aid's initial letter to the Department of the Attorney General when responding to that Department's inquiry. It was felt that this was, in all probability, due to misreading the file. Nevertheless, they maintained their position that there was valid justification for granting the second application. It was also stated that if our complainant felt he was hard done by, his remedy was against his spouse and not the agency that paid her legal bills.

After again carefully considering all the information obtained during the course of our review, it remained my opinion that, although the granting of the Legal Aid application may have been done in good faith, without bias or malice, our complainant had suffered a grievance by virtue of the granting of two separate applications. Whereas the Legal Aid Services Society (Legal Aid Manitoba) is administratively responsible to the Department of the Attorney General, I made a formal recommendation to the Attorney General of Manitoba that **our complainant be reimbursed the amount of his legal costs associated with the application for maintenance for his son**.

I received a response from the Attorney General of Manitoba advising that the matter would be dealt with in the first instance by the Board of Legal Aid Manitoba. I subsequently received a letter from Legal Aid Manitoba advising that the Board of Directors were of the unanimous view that they could not accept my recommendation and did not intend to act on it. It was reported that Legal Aid is a funding agency only and if the Court felt the case was frivolous or vexatious it could have awarded costs on a solicitor client basis. I then again contacted the Attorney General and requested his response to my recommendation.

The Attorney General reported that he felt reimbursement would have to be a decision of Legal Aid. In his view, he did not have the statutory right to impose my recommendation. However, he also made it clear that he supported Legal Aid's position and could not recommend to the Board of Legal Aid that they follow my recommendation.

I wish to make it clear that I was not basing this recommendation on any indication of bias, malice or bad faith on the part of Legal Aid itself. A recommendation was made on what I felt to be an administrative error in judgment which, in my opinion, resulted in a grievance for our complainant. Because the Court in this instance did not make any order as to cost does not necessarily mean that the error in judgment did not occur. I am also not entirely comfortable with the assumption that, because the Court does not make such an order, it means that the Court did not feel that any such bias, malice, or bad faith existed.

I remain firm in my opinion that Legal Aid Manitoba erred in the administration of this case and I feel that my recommendation was appropriate. While the Courts certainly are an appropriate avenue, and one of the better avenues, to determine whether a lawyer has initiated unnecessary proceedings, I am not convinced that the Court is the only avenue which can pass a reasonable opinion on such a matter. Indeed many matters, not just matters involving lawyers which come before the Ombudsman, are issues which could be heard in Court. Because the Court avenue exists, it does not necessarily negate the validity of the Ombudsman's finding nor his recommendations.

While the Ombudsman has the power to make recommendations, there is no authority for the Ombudsman to enforce those recommendations should the department or agency involved disagree with the recommendation. In this particular case I remained firm in my opinion that my recommendation should be implemented. However, I could not conclude that the reasons given by Legal Aid Manitoba for rejecting my recommendation were clearly wrong or unreasonable. I reported to my complainant that I would not be taking any further action on this case and our file was concluded.

86-110-48 Manitoba Attorney General

Complainant alleges error made preventing him from obtaining entire amount of automobile damage claim.

My office was contacted in October 1986, by an individual who had lodged a complaint against the Department of the Attorney General and the actions of the Crown Prosecutor with respect to the amount of restitution obtained following the successful prosecution of an individual who had caused damage to the complainant's property.

The complainant is the owner of a late model automobile which was willfully damaged by another individual kicking the side of the vehicle following an argument. The incident had been reported to the City of Winnipeg Police Department and the individual who caused damage to the vehicle was subjected to the appropriate charges. The complainant was informed by the City of Winnipeg Police Department that the matter would be disposed of by the Courts and that he would not have to be in attendance in Court on the date of the trial.

In addition to reporting the incident to the Police Department, an insurance claim was filed for damages with the Manitoba Public Insurance Corporation.

Following the filing of the claim, the Manitoba Public Insurance Corporation inspected the complainant's vehicle and indicated that the cost of repairing the vehicle would be $191.17. As the individual's insurance with the Corporation was subject to a $200.00 deductible and as the damage sustained to his vehicle was less than his deductible, he was unable to pursue a claim for damages with the Corporation. Nevertheless, the Claims Personnel for the Corporation wrote to the Senior Crown Attorney within the Department of the Attorney General, advising him of the cost of repairing the vehicle and requested that the Courts consider restitution in the full amount of the cost of repairs and that restitution, if ordered, be directed to the Corporation for disbursement. The Corporation also contacted the individual who caused damage to the complainant's vehicle and advised him of the extent of the damage and demanded reimbursement on behalf of the complainant.

The individual causing damage to the complainant's vehicle was brought to trial and pled guilty to the charge of mischief. He was fined for the offence and ordered by the Court to pay restitution to the complainant in the amount of $100.00 (even though the damage to our complainant's vehicle was $191.17). This individual complied with the Court Order. However, when requested by the Manitoba Public Insurance Corporation to pay the additional sum of $91.17, he refused. The Corporation then advised the complainant that it had no further financial interest in the matter and was unable to take further action.

The complainant felt that, through no fault of his own and possibly due to an oversight either by the Manitoba Public Insurance Corporation or the Attorney General's Department, the full amount of restitution was not obtained and that he had suffered a grievance in the amount equivalent to $91.17.

My Investigator contacted the Crown Prosecutor who handled the case for the prosecution and he confirmed that the individual who had caused damage to the complainant's vehicle did, in fact, appear on the charge of mischief and was found guilty. The Crown Prosecutor further confirmed that his office received a letter from the Manitoba Public Insurance Corporation indicating that the damage to the complainant's vehicle was $191.17. Although it is uncertain as to exactly when this letter was received, the Crown Prosecutor advised that it is quite apparent that the information provided to his office by the Adjuster from Autopac was not passed on to the Judge at the time of sentencing. As a result, the Order of Restitution was based on an estimated cost of repairs to the complainant's vehicle as provided by the Police Investigators and contained in the Police Report. This amount was estimated at $100.00.

My office wrote to the Director of Criminal Prosecutions indicating that it would appear that the complainant had been aggrieved by the actions of the Attorney General's Office and had suffered a loss in the amount of $91.17.

In responding to our letter, the Director advised that he had reviewed the prosecution's files on the matter and had interviewed the Crown Attorney handling the prosecution. He advised that the Crown endeavors, in all cases, to obtain restitution for victims of crime and letters relative to the loss or damage suffered by victims are received in large numbers. He explained that the procedure followed is to take steps to ensure that the proof of loss, or letter requesting restitution, is attached to the prosecution's file so that when the issue arises in Court, it can be brought to the attention of the presiding Judge. In the case in question, the Director advised that the letter (from the Manitoba Public Insurance Corporation) would have been referred to the Winnipeg Police Court Unit, who maintains the prosecution files at the Public Safety Building. The Court Unit apparently had the responsibility to locate the charge against the individual, locate the appropriate Police Report, and attach the letter to the front of the Police Report.

The Director confirmed that the Crown Attorney who handled the case for the prosecution, when dealing with the issue of sentence, referred to the information contained in the Police Report which indicated that the extent of damage to the complainant's vehicle was estimated at $100.00. This, he explained, was the only information, relevant to restitution, contained in the prosecution's file. The Crown Attorney stated that the letter from the Autopac Adjuster had not been attached to the prosecution's file; however, according to the Director, on reviewing the prosecution file, presumably at the time of our inquiry, the letter from the Autopac Claims Personnel indicating the full extent of damage to the complainant's vehicle was clearly attached to the Police Report. The Director advised that the letter, which was dated prior to the trial date, does not bear a stamp or any evidence which might indicate the time when it was, in fact, received. He suggested that a possible explanation is that the letter was received after the matter had been dealt with by the Courts.

My office made inquiries with respect to the manner utilized by the staff on receipt of incoming mail. I was advised that when correspondence is received by the Department, the receptionist will open the correspondence, place a date stamp on it and then relay it to the respective areas within the Department. The date stamp on the correspondence is the only means of determining when the correspondence is, in fact, received by the Department as the Department does not have a mail registry or a log in which correspondence is recorded.

The Director indicated that there was nothing that the Department could do for the complainant and suggested that a Small Claims Court action be launched for the additional sum of $91.17.

It was my view that this position placed an unnecessary burden on the complainant. In addition, should the matter have been reviewed by the Court and in the event that the complainant had been successful, there was no assurance that he would have been able to collect the additional sum based on the judgment.

In the case under review, there appears to be no doubt that the personnel from the Manitoba Public Insurance Corporation had forwarded a letter to the Department of the Attorney General providing all relevant details of the actual amount of damage suffered by the complainant. This was acknowledged by both the Senior Crown Prosecutor as well as the Director of Criminal Prosecutions. Through an inadvertent error by personnel in the Department of the Attorney General, this piece of incoming correspondence was not date stamped and as a result of this shortcoming, it was impossible to ascertain the exact date when the relevant informationwas received by the Department of the Attorney General. The Crown Prosecutor handling the case had stated that the information was not in his file at the time when the matter was addressed by the Courts and with the large influx of incoming mail to the Department, it would be impossible for the receptionist to confirm otherwise. Nevertheless, it was my opinion that although the letter containing pertinent information from Autopac may not have been included in the prosecution's file at the time the matter was addressed by the Court, indications were that the information was in fact available prior to the matter being brought to trial.

Based on the advice received from the Director of Criminal Prosecutions that the Crown endeavors in all cases to obtain restitution for victims of crime, it would seem prudent that the Crown Prosecutor take every reasonable step to ensure that all available evidence is obtained and presented to the Court to accurately reflect the amount of damage suffered by the victim. In this case, it was evident that the Crown, in the pursuit of restitution, utilized the information provided in the Police Report, which was not an accurate assessment, but instead an estimated cost of repairs to the complainant's vehicle.

My conclusion was that through no fault of his own, the complainant had essentially been denied recovery of the full amount of damages which he suffered. I therefore recommended to the Attorney General that his Depart an award of compensation to the complainant in the amount of $91.17. This represented the difference between the sum received by virtue of the Order of Restitution and the actual sum of damage suffered by the complainant.

After reviewing my recommendation, the Deputy Attorney General wrote to the complainant and advised him that the Department fully concurred with my recommendation. As a result, the Department of the Attorney General provided the complainant with a cheque in the amount of $91.17 and as well, apologized for the inconvenience that may have been caused. Our file was concluded showing this case to be resolved.

87-110-13 Manitoba Attorney General

Difficulty obtaining witness fees.

A Saskatchewan resident contacted our office and expressed concern on his inability to collect witness fees from the Manitoba Attorney General. He advised that in November and December, 1986, he had been required to attend a Manitoba Provincial Court case. Subsequent to this, he alleged to have placed four telephone calls to the Manitoba Attorney General's Office but was unable to resolve his concern. His indication was that the Saskatchewan Attorney General had suggested that he contact our office.

On April 22, 1987, we contacted the Director of Criminal Prosecutions with the request that a report be supplied indicating whether our complainant was entitled to witness fees, and if so, when he could anticipate payment. As no reply had been received by July 1987, a further request for a report on the matter was made.

Subsequently, a letter dated August 7, 1987 was received stating that, due to an administrative oversight by the Branch, an error had occurred. We were advised that our complainant's claim had not been processed along with the other witness claims. It was noted by the Director that it had taken some time to track down all the correspondence on file. The Director then issued instructions that this claim be expedited and that payment be made forthwith.

I was pleased with the action taken to correct this administrative oversight after the complainant's concerns were brought to the Director's attention by my office. However, it is unfortunate that it took four telephone calls (according to our complainant) and two requests by our office before the matter was resolved.

87-290-9 Manitoba Housing

Disputes Rentalsman's decision re: landlord/tenant problem; concerned also about attitude and manner of staff member.

A landlord contacted our office and expressed concern about the manner and attitude which a staff member of the Office of the Rentalsman had displayed during the course of resolving a dispute. The dispute itself related to the way the landlord had disposed of a former tenant's chattels, and whether the landlord was entitled to reimbursement to cover the expenditures incurred due to certain actions of the tenant. The landlord's concern about the Rentalsman's Officer related to that staff member's manner of dealing with her which she described as brow-beating and intimidating. Concern was expressed that one meeting between the Rentalsman's staff member and the landlord had been tape recorded without the landlord's prior knowledge or permission.

The Director of Landlord and Tenant Affairs was informed of the concerns presented by the landlord. The Director responded by indicating that given the serious nature of the concerns presented, he would personally investigate and report on this matter. Prior to our office receiving a report from the Director, my Investigator attended at the Director's Office and listened to the taped recording which the Rentalsman's staff person had made at the one meeting with our complainant.

The report received by our office from the Director indicated that he was not aware that a staff member was taping interviews and expressed shock that this was taking place. In order to address this unacceptable practice, written instructions were given to ensure that the practice of taping interviews would be discontinued. The Director also advised that the interviewing techniques utilized by his staff member, which our complainant had found unacceptable, would be discussed with that employee at the time of his next performance appraisal.

After having received the Director's report, our complainant was again contacted to determine if the Director, in the course of carrying out his investigation of her concerns, had adequately addressed her concerns, or if there were some outstanding concerns which our office should be pursuing further. She advised our office that the Director had been in contact with her and that she was more than satisfied with the manner in which he had dealt with her, and that he had resolved her concerns. She advised that her main concern was the manner in which the Rentalsman's staff person had dealt with her and that this aspect had been resolved by the Director. The dispute between herself and the tenant, which had resulted in her initially contacting the Rentalsman, had now been explained to her in a manner that she understood. At this time, our complainant advised that she did not feel that any further involvement by our office was required.

Based upon the information our office obtained by listening to the taped recording of the interview, the information supplied by the Director in his report and the information supplied when my Investigator had a meeting with him, it was concluded that the concerns of our complainant had been adequately addressed. There was no indication that the Rentalsman's Office had not dealt with the dispute between the landlord and the tenant in an acceptable manner. We were also satisfied that with written instructions that the taping of interviews be discontinued and with the commitment that the staff person's manner of conducting interviews would be reviewed at the time of an employee appraisal, our complainant's concerns were adequately addressed. The promptness with which the Director of Landlord and Tenant Affairs dealt with this rather serious concern was appreciated.

86-120-1 Manitoba Business Development and Tourism

Complainant feels award for design excellence has been incorrectly given.

The case under review was referred to me by the Premier of the Province of Manitoba after a complaint had been brought to his attention by an individual. The concern dealt with the granting of an Award of Merit under the Premier's Awards for Design Excellence. It was the belief of the complainant that the granting of an award to his former co-partner as the sole designer of a certain product was improper and that he (complainant) had suffered a grievance by not being recognized as a co-designer and also by not having received an award.

The Premier's Award for Design Excellence is sponsored by the Manitoba Design Institute. Applications are invited from persons affiliated with certain professional associations and recognition is given to achievement in Industrial Design, Engineering and Technical Design, Architecture, Interior Design, Landscape Architecture, Graphic Design, Exhibition Design, Packaging/Merchandising Display, and Apparel Design. Entries are judged on creativity in design and originality of concept, technical innovation, functional qualities, aesthetics, quality of manufacture or construction, use of materials and resources and their relevance to environment consideration, ergonomics, contributions to the quality of life, and the significance to the economic contribution to the company's or client's growth.

In the case under investigation, two individuals had gotten together and formed a company for the purpose of designing and producing an orthopedic support cane. The company had received significant funding from the Provincial Government through the Technology Commercialization Program, as well as assistance from the National Research Centre. They had acquired office accommodation at the Technology Incubation Centre and and as a result, the affairs of the company were well known by the program staff of the Department of Business Development and Tourism.

An official entry for consideration under the Premier's Awards of Excellence was submitted by the company listing only one of the partners as the designer of the product. The entry was successful and essentially, two merit awards in the Industrial Design category of the Premier's Awards for Design Excellence were provided; one to the company and the other to the partner who submitted the entry. Our complainant neither received any credit nor recognition for his contribution in the designing of this orthopedic support cane.

My office contacted the Deputy Minister of Business Development and Tourism to review these concerns and we were referred to the Executive Secretary for the Manitoba Design Institute. My Investigator met with the Executive Secretary and in discussing this matter, attention was focussed on the manner by which the actual granting of the award was determined. It was revealed that the complainant was, in fact, a cofounder of the company and although he was not employed with the company at the time when the application for the Premier's Awards for Design Excellence was made, he did in fact own 49% of the shares. Further, it was revealed that the co-partner was responsible for submitting the application for the award and neglected to include the complainant's name as a codesigner; hence, the application reviewed by the Manitoba Design Institute made reference to the copartner as being the sole designer of the orthopedic support cane and it was judged accordingly.

My Investigator discussed the process by which the application for an award was reviewed with the Executive Secretary. Particular emphasis was placed on the system or the process utilized by the Institute in verifying the authenticity of each entry.

We were advised that all entries to the Institute from various companies were firstly reviewed by the Secretary for the Manitoba Design Institute. The Secretary would generally screen the applications and then refer selected applications to a Review Panel. If, in the opinion of the Review Panel and based on the qualifying criteria established by the Institute, the application is feasible enough to warrant an award, a recommendation is made to the Premier's Office. However, we were informed that due to a large number of applications being received by the Institute, it was virtually impossible to check each application. The Executive Secretary explained that the applications are taken at face value and judged on the validity of the application and, consequently, this could give rise to a situation of misrepresentation by the applicant. Hence, in the case under review, based on the application forwarded by the co-designer, an Award of Merit was given to this individual and another to the company. Inasmuch as the complainant's name was not included on the application, he did not receive an award.

In responding to our inquiry regarding the reasons why the complainant had not been given credit for design of the orthopedic support cane, the Executive Secretary cited the following reasons:

1. The official entry form submitted with respect to this product does not bear the name or the signature of the complainant in the designer's category as requested on the entry requirements.
2. A profile of the company in a prior Report on Small Business makes no reference to the complainant's involvement in the design of the product.

On reviewing this information, my office took issue with the reasons provided by the Executive Secretary indicating that while the official entry does not bear the complainant's name as a designer, the Report on Small Business made reference to the complainant's involvement in the designing of this product. Also, in the same report, under the Profile of Small Business section, there was a picture of both designers with an underlined caption indicating that the company specializes in the design and manufacture of improved ambulatory aids for the disabled. This caption lists both partners as having directed the company towards the application of modern plastics technology in the field of orthopedic appliances.

The Executive Secretary advised that, following my office's review of this situation, he contacted the partner whose name was listed as the designer on the application for an Award of Merit and questioned him about the complainant's involvement in the designing of the orthopedic support cane. The co-partner acknowledged that the complainant was, in fact, a codesigner of the product and that the failure to include his name on the official application form was merely an oversight. He (the co-partner), therefore, had no objection to the complainant receiving an award.

As a result of these findings, the Manitoba Design Institute agreed to provide an award to the complainant as a co-designer of this product. Following this decision, there appeared to have been some concern with respect to the manner by which the award would be made available to the complainant as he requested that it be presented to him in a fashion similar, if not identical, to that which was afforded to other recipients, thereby receiving the same level of recognition. On this matter, I understand a compromise was reached whereby the award was made available to the complainant with appropriate recognition in the local newspaper.

Having reviewed this matter, I made the following observations to the Department:

1. The system utilized by the Manitoba Design Institute in reviewing applications for the Premier's Awards for Design Excellence is inadequate insofar as it is lacking in its provisions to verify the authenticity of the individual applications. While it may be true that a large number of applications is received, it would seem incumbent upon the Institute to ensure that each application is worthy of merit.
2. It would seem that the Manitoba Design Institute was aware of the complainant's involvement in the designing of the product and, therefore, it would have been appropriate to have conducted a review before recommending that an Award of Merit be granted only to the person named as the designer on the application form.

In order to prevent similar occurrences in the future, I recommended that a system be developed whereby some reasonable action be taken to verify the accuracy of each application prior to a recommendation being made for the Premier's Awards for Design Excellence. I suggested that perhaps a notice or advertisement could be placed in the local newspaper advising of the Institute's intent to grant an award to a particular individual or company, thereby canvassing any objections or interest from concerned parties.

In responding to my recommendation, the Deputy Minister of Business Development and Tourism advised that the situation was discussed with the Manitoba Design Institute and further reviewed by the Attorney General's Office and I was informed that measures have been undertaken relative to my recommendation. The assurance was given that in future, changes as suggested by the Legal Services Department of the Attorney General's Office will be incorporated into the official entry forms. My suggestion that a notice or advertisement in the local newspaper listing the finalists was rejected by reason of the fact that it was too costly.

In reviewing the response of the Department, the measures which were indicated to have been been undertaken with respect to my recommendation did in fact satisfy the recommendation. The complainant was advised of our findings and we concluded our involvement in this matter.

87-140-34 Manitoba Community Services

Inmate alleges unfair treatment.

Our office received a call from an inmate who raised a number of concerns including the restriction of phone calls to two per week on a request basis and the way in which a Disciplinary Board hearing had been conducted. Inquiries were made with the Institution and a report was received.

We were advised that the inmate's phone privileges had been restricted as he had made annoying phone calls to a member of the public. A review of the circumstances supported the Institution's position and there was no basis to conclude that the inmate had been treated unfairly in this matter.

We further reviewed the information which had been supplied concerning the Disciplinary Board hearing. Our complainant had been found guilty of throwing hot water at another inmate. The Disciplinary Board decided that the inmate should be in segregation and he should lose three days remission.

We were advised that after the decision had been made, information was received which cleared our complainant of the charge. The inmate had been removed from segregation and credited with three days remission.

In questioning what information had been received, we were advised that another inmate had admitted to throwing the water. We note that the inmate's confession had been given to a correctional officer prior to the Board hearing, but that this information had not been available to the Disciplinary Board, as the information was in the process of being typed at that time. It was our understanding that when the information contained in the correctional officer's memo was made available to the Superintendent, the Disciplinary Board's decision had been overturned and our complainant had been released from segregation with no loss of earned remission.

I was of the opinion that all relevant information should be before the Disciplinary Board when a decision is being made. We raised this matter with the Superintendent of the Institution, suggesting that appropriate steps be taken to ensure that relevant information reaches the Disciplinary Board through other means where information cannot be typed in time to meet a Disciplinary Board hearing date.

The Superintendent responded stating that he would characterize the problem in this case as human error rather than a system flaw. We were advised that procedures and safeguards have been in existence for some time to ensure that all relevant information is before the Disciplinary Board when a decision is being made. We were advised that:

"1. In 1986, we separated the role of the Disciplinary Board from having to prosecute and adjudicate the case before it. The Board is now solely adjudicative in function. The 'prosecution' role is assigned to a staff member who is responsible for compiling all information relevant to the case and presenting the case before the inmate and the Board.

2. Reports generated concerning a disciplinary case are directed to the Assistant Superintendent, Security. One of the intentions of this focussing of reports is to prevent fragmenting the information on a case by having a number of individuals generating reports to different managers.

3. The Office of the Assistant Superintendent, Security possesses confidential security files which may have relevance to a particular case. This is an additional reason why all disciplinary reports are directed there.

4. The Disciplinary Board has the capability to adjourn the proceedings before it if it feels that further information or investigation warrants more time to prepare the case. Alternatively, the Board can grant an adjournment if the inmate requests more time to prepare his defence, or call witnesses, etc."

From our review, we are satisfied that the process established for conducting hearings before the Disciplinary Board is fair and reasonable.

87-140-130 **Manitoba Community Services**

Inmate claims money order sent to him not deposited into his trust account.

An inmate at a Correctional Institution complained that he believed a $60.00 money order sent to him by a family member had not been deposited to his trust account at the Institution. He said that a letter he received made reference to an attached money order. However, he said, the money order was not attached.

We contacted the Superintendent of the Institution to see if the money order was received and deposited in the inmate's trust account. There was no record of a deposit but the Superintendent found the $60.00 money order in the inmate's property bag (which contains belongings taken upon admission and during incarceration). The Superintendent was unable to say when the money order was received or how it came to be in the inmate's property bag or why it had not been deposited. The money order was immediately credited to the inmate's account.

While this resolved the particular complaint, many questions remained unanswered about the process for dealing with money sent to inmates. For example, what happens when money is received? Who has contact with it? How is it recorded? How is it placed in the inmate's account, under whose signature, and by what procedure? How would an inmate know it was sent to him, etc.? It appeared that an established practice was required to prevent abuse to either the inmate or the Institution.

To learn more about the process for dealing with money sent to inmates, the Assistant Ombudsman and an Investigator arranged to meet with the Superintendent of the Institution. However, except in very general terms, the Superintendent was unable to explain how money (cash, money orders and cheques) mailed or delivered to inmates in the Institution was handled. As a result, the Superintendent told us that he would review the procedure for the handling of inmates' money for deposit into trust accounts. We requested that we be informed about the outcome of this review. At the time of writing this report, the Institution was in the process of drafting the procedure as part of a larger project. While this action by the Department would indicate that this problem may soon be resolved, our file remains open and we shall continue to monitor this matter.

87-200-1 **Manitoba Education**

Dispute over amount of Student Aid bursary.

Our office received a complaint from a student who was enrolled at the University of Manitoba and who had received student loans and bursaries from the Student Aid Branch. She was concerned about the size of her bursary for the 1986/87 season.

Many government departments and agencies have appeal procedures laid out for review of their decisions. Students who do not agree with the assessment of their applications for Student Aid or feel their awards are inadequate have the right to appeal to the Student Aid Appeal Board.

Our office does not usually become involved in a case prior to a person appealing the matter unless the Ombudsman is satisfied that in the particular case, it would be unreasonable to expect the complainant to appeal the decision. In this case, our complainant had not appealed the Student Aid Branch's decision to the Student Aid Appeal Board. It was apparent that our complainant felt considerable anxiety and frustration in her dealings with the Student Aid Branch and she did not feel she could take on the added stress of appealing the matter further. Accordingly, she requested that our office review the matter.

A number of our complainant's concerns related to the type of financial assistance a student could expect to receive from the Student Aid Branch. We note that The Education Administration Act sets the parameters for the type of assistance which a student will receive. The Student Aid program is intended to supplement an applicant's own resources or the resources of his or her immediate family. An assessment of need is conducted based on the resources available to a student including any contribution from a student's parents or spouse. These resources are deducted from the allowed living and educational costs to arrive at any deficit which will determine the amount of award a student will receive.

Our complainant indicated that in November, 1986, she received a notification of award stating that the amount of her bursary would be $2,405.00. She advised that this amount was approximately $1,000.00 less than the amount she had received the previous year. The complainant informed us that this award was subsequently revised in a notification of award in December 1986, which indicated that her revised bursary amount would be $1,475.00.

The student indicated that she had made inquiries to determine why the amount of her bursary had been reduced. She had been advised that the estimate of her casual earnings had been changed from $1,100.00 to $2,000.00. She indicated that at that point, she reviewed the file with the Branch and noted that they had accepted and used her projected earnings as a resource for the study period but had not recognized her expenses such as babysitting. She was advised that the Branch also took into account money which had been in her bank account on May lst. Our complainant did not feel this money should have been used as a resource because part of the money had been borrowed from a family member and the remaining money represented rent given to her by her sister.

Our complainant also outlined the problems she had experienced with the Student Aid Branch in January, 1986. These problems related to a $1,000.00 grant she had received from the Minister of Education.

We made inquiries with the Director of the Student Aid Branch and we received a report. The report indicated that upon receipt of our letter, a preliminary investigation was conducted by the Director with the result that a full audit of our complainant's applications was performed.

Relating to the situation which had arisen between November 1985, and January 1986, we were advised by the Branch that in August 1985, our complainant had negotiated a Canada Student Loan. The Branch indicated, however, that our complainant had approached the Branch and advised that she would require further funds. Upon review of our complainant's statement of income and expenses, the Branch advised that it appeared she would require funds over and above the maximum award levels. Accordingly, a $1,000.00 Manitoba Government Grant was issued. I note that this is a special award which is normally granted only after the student's bursary award is determined and only if the student's assessed need exceeds the maximum award levels. In our complainant's case, the Branch advised that although her bursary application had not been processed at that point, a decision was made by the Assistant Director to issue the grant early in light of the financial crisis our complainant was experiencing.

Following the processing of our complainant's application, the Branch noted that she was not eligible for the special grant award as the Branch felt her assessed need could be met with the regular bursary amount. The Branch indicated that with this information a review was completed and a determination was made that an over-award had resulted. We were advised that our complainant appealed this determination and the Student Aid Appeal Board opted to waive the repayment.

In light of this information, the Branch advised that the reason our complainant received approximately $1,000.00 less in the 1986/87 period than what she had received in the 1985/86 period was that, during the 1985/86 period our complainant had been granted more money than her need warranted. We were advised that our complainant's assessed need for the 1986/87 period had still been met.

We were advised of other factors which contributed to our complainant's 1986/87 bursary award being lower than she had been previously informed. The Branch indicated that after our complainant's file had been reviewed, a staff member had noted that her benefits under the Shelter Allowances for Family Renters program had been reduced. The staff member had also confirmed with our complainant's employer that her estimates in 1985/86 and 1986/87 for employment earnings had been significantly lower than her actual earnings.

When our office reviewed this information with our complainant, she did express some frustration with the process of being audited. However, our office noted that the brochure which provides information on the Student Aid program to applicants does advise applicants that investigation and/or auditing is a condition of application. Applicants are advised that if the information provided by the applicant is inaccurate, the award will be reassessed. Applicants are also advised that they are obligated to provide additional information if it is required and if they do not comply with the audit requests, their awards may be cancelled. It would appear that the process of auditing and investigating is a necessary check and balance on the program to ensure that if an applicant's financial situation changes, the program can accommodate a change.

I note that when our office referred the matter to the Director of Student Aid, special efforts were taken by the Branch to explain to our complainant the Student Aid program and the process which is followed when changes are made in student awards. We also provided a fairly detailed explanation in writing which I understand assisted in clarifying the situation to the satisfaction of our complainant.

85-300-9 Manitoba Highways and Transportation

Alleges unfair treatment by Driver and Vehicle Licencing re: request for psychiatric assessment.

Our complainant in this case had been involved in a motor vehicle accident, following which he attended a District Police Station to file an accident report. Approximately one month later he received a letter from the Driver and Vehicle Licencing Branch of Manitoba Highways and Transportation advising him that it had come to the Department's attention that his mental condition might be such as to impair his ability to safely operate a motor vehicle. In view of this, he was asked to furnish the Medical Department with a report completed by a psychiatrist or his family doctor which clearly stated that he was mentally fit to operate a motor vehicle.

Our complainant considered this to be a very serious matter and engaged the services of a lawyer. The lawyer made an inquiry with the Driver and Vehicle Licencing Branch following which the Branch initiated further inquiries with the Police Department. Our complainant was subsequently notified by the Branch that upon reviewing the additional information requested from the Police, they had decided not to take any action at this time. Our complainant felt he had been treated unfairly by the Driver and Vehicle Licencing Branch in this matter and felt he should receive an apology and his legal fees of $51.38 should be paid.

My office made inquiries with the Driver and Vehicle Licencing Branch regarding this matter. It appeared that the original request for a medical certificate was precipitated by the receipt of the accident report from the Police Department which had recommended a review, along with the comments by the reporting officer that our complainant did not seem to be "normal" based upon his behaviour when he attended the district station. The Driver and Vehicle Licencing Branch later requested and received, from the Constable, additional information which re-affirmed his opinion that he considered our complainant's behaviour to be unusual and not that of a person "acting normal".

The Driver and Vehicle Licencing Branch also decided to have a representative from their office interview and further assess our complainant. However, a representative from the Branch did not interview our complainant directly but did speak to another person who knew him. This individual gave an opinion of our complainant's mental status. The opinion was obviously accepted by the Branch as the decision was made not to take any further action but to monitor the complainant's driving record.

After reviewing the information received, I first questioned the decision of the Driver and Vehicle Licencing Branch to request that our complainant provide a medical report on his emotional stability, on the basis of the information contained in the Police Report. Secondly, I questioned the manner in which the "investigation" by the Driver and Vehicle Licencing Branch was conducted which resulted in the Branch rescinding that request.

In 1983 I had had rather extensive communication with the Driver and Vehicle Licencing Branch relating to a complaint which had been brought to my attention by an elderly driver who had been requested to take a driver's re-examination on the basis of a report from a Police Department. At that time I had some very serious concerns that this request had been precipitated on the basis of very little background information from the Police and it was my opinion that the Driver and Vehicle Licencing Branch should be fully cognizant of the circumstances which had led to the request being made. It was my suggestion at that time that it be an expectation and a requirement that sufficient detail accompany a report from any Police Department, or other reporting agency, where a recommendation is being made to have a driver re-examined to determine if he/she is qualified to hold a driver's licence. In November 1983, I was advised by the Driver and Vehicle Licencing Branch that my suggestion that further information be obtained in the future from Police in support of these reports had merit, and consideration would be given to amending their requirements in this regard. This case was reported in my 1983 Annual Report.

I felt there were some striking similarities between the 1983 case and this one. Although in this case our complainant was not being re-examined, he had, on the basis of a Police Report, been requested to submit a medical report stating he was mentally fit to operate a motor vehicle. It was not until after this request had been questioned by the complainant's lawyer that the Police Department was contacted for further information. The basis for the Branch's request apparently was not entirely sufficient as further inquiries were made by the Branch.

It also appeared to me that the Branch may not have undertaken to make any changes in the area of ensuring that sufficient information was received from Police or other reporting agencies, as had been suggested in 1983. My position is that information from the Police, or other sources, cannot simply be accepted as bona fide with no questions asked. I felt that these two cases raised some very serious concerns as to whether the Driver and Vehicle Licencing Branch had established clear criteria for determining when a person may be required to either produce a medical report, or be retested. I requested that the Branch provide me with clarification on this issue. I also requested that I be advised as to what decision had been made with respect to my suggestion regarding the need to obtain sufficient information on which to base decisions.

Regarding the manner in which the "investigation" was conducted by the Driver and Vehicle Licencing Branch, I questioned whether it was fair or appropriate to have the information received from our complainant's acquaintance on file, and I requested that the Driver and Vehicle Licencing Branch review the appropriateness and relevancy of having this information recorded.

I acknowledge that the Branch must exercise discretion at times in making judgment calls relating to motor safety and individual rights. However, I feel that the Branch must ensure that the discretion is exercised carefully with all relevant information being considered. After carefully considering this complaint, I indicated I was prepared to make a recommendation that our complainant's legal fees in the amount of $51.38 be reimbursed to him by the Department of Highways. However, I advised the Driver and Vehicle Licencing Branch that before proceeding further, I would await further information from them on this matter.

In the response received from the Driver and Vehicle Licencing Branch, it was reported that they are very conscious of the need to exercise great care in the execution of judgment calls in matters of this kind, bearing in mind that the safety of all persons using our roads must be paramount. The Assistant Deputy Minister/Registrar of Motor Vehicles advised us that he was satisfied there was no deliberate disregard of this individual's rights in the procedural steps taken and the provisions of The Highways Traffic Act being properly observed. It was also noted that it was their opinion that there was no requirement on our complainant to retain the services of a lawyer because if the complainant had required further information he could have contacted the Medical Records Section himself.

It was acknowledged by the Assistant Deputy Minister/Registrar of Motor Vehicles that the inquiry subsequently conducted by the Driver and Vehicle Licencing Branch was unacceptable and that a further attempt should have been made to meet with the complainant rather than settling for the opinion of an acquaintance. We were advised that the Registrar had directed that this not recur again under any circumstances. He also concurred that it was most unjust to have our complainant labelled based on an opinion of our complainant's mental ability received from an acquaintance, and he had instructed that all references in this regard be removed from the file.

I was also informed that my comments regarding the need for a review of requirements regarding requests for medical reports had been largely addressed by the use of a new traffic accident report which contains a supplementary page for further information. The introduction of the new report was to come into use province-wide on January 1, 1987. I was also advised that the Division had hired an outside consultant as a Medical Advisor to whom they turn for advice in cases where their nursing staff needed support.

After careful consideration of the Department's response, I remained firm in my opinion that all relevant information should be considered by the Driver and Vehicle Licencing Branch **before** notices are issued under The Highway Traffic Act. Even if, as the Branch indicated, they would have taken the same action had the inquiry been received directly from our complainant, rather than his lawyer, it did not alter the fact that after the Branch received additional information the decision was made not to take any action. While there was no requirement on our complainant to retain the services of a lawyer, had adequate information been obtained in the first instance, the hiring of a lawyer would not have been necessary. Under the circumstances, I did not consider it imprudent of our complainant to have hired a lawyer. Hence, I made a formal recommendation to the Minister of Highways and Transportation that legal fees in the amount of $51.38 be reimbursed to our complainant.

In response to my recommendation the Minister of Highways and Transportation replied that he could not accept my recommendation that the sum be reimbursed from Departmental funds. He stated he felt that our complainant was adequately notified in the letter received from the Branch of the availability of obtaining further information by contacting the Medical Records Section of the Division of Driver and Vehicle Licencing and had the complainant followed that advice, he would not have incurred the expenses resulting from retaining the services of a lawyer.

I responded to the Minister requesting a meeting as I felt it would be helpful for us to discuss this case in detail. Before a meeting could be arranged there was a change of Ministers and I later met with the new Minister of Highways who was appointed in the Fall of 1987. We discussed this case and the general concerns in some detail. I requested that the Minister review the recommendation and advise whether or not the position had changed as far as acceptance of the recommendation was concerned. I was subsequently advised by the Minister of Highways and Transportation that he was prepared to direct the Department to reimburse our complainant in the amount of $51.38. Given the action taken by the Department this case was concluded as resolved.

84-300-44 Manitoba Housing

Dissatisfied with action taken by Rentalsman's Office re: security deposit dispute.

In October 1984, I received a letter from a tenant who had moved from her rental premises when the premises was sold. However, she had never received the return of her security deposit. After she was unsuccessful in getting a return of her security deposit she eventually went to the Rentalsman's Office for assistance. After several months, she contacted our office expressing her concern that the matter still was not resolved. She also felt she was getting conflicting information from the Rentalsman's Office regarding who was responsible for refunding her security deposit.

Inquiries with the Rentalsman's Office showed that this file had been opened on January 25, 1984. Under date of February 13, 1984, a letter was sent to the landlord advising him of the dispute regarding the return of the security deposit and requiring that he forward the security deposit to the Rentalsman's Office until the dispute was settled. In March 1984, the landlord advised the Rentalsman's Office that he had no dispute but he was on the verge of bankruptcy. He apparently said he would try and pay the tenant before he went bankrupt. On May 1, 1984, the Rentalsman's Office sent the landlord a second letter advising that compliance in submitting the security deposit was expected within seven days and should he fail or neglect to comply, their duty in this regard was clear. On May 15th, a second copy of the May lst letter was again sent to the landlord.

A review of the Rentalsman's file indicated that between May and October 1984, some inquiries were also made with respect to the new owner of the premises in question. However, there was no record of any other contact with the original landlord until October 1984. In October, the Rentalsman's Officer called the landlord and the landlord reportedly stated he couldn't come up with the money because he spent it along the way. It was also noted that the landlord did not work and had no money. The landlord was then sent a letter stating that the security deposit must be paid into the Rentalsman's Trust Account on or before November 2, 1984. He was also sent correspondence advising him that he had not complied with The Landlord and Tenant Act and that the matter may be referred to the Crown Attorney requesting prosecution be entered against him.

On November 1, 1984, the Rentalsman's Officer spoke to the landlord who discussed the possibility of declaring bankruptcy as he was having financial difficulties. On November 6, 1984, our office was advised that the matter was being referred for prosecution to effect the payment of the security deposit to the Rentalsman's Trust Account.

On November 7, 1984, the landlord again advised the Rentalsman's Office that he did not have any money to pay the security deposit but he would try to borrow some money to make a small partial payment. On November 9, 1984, the landlord apparently agreed to pay $20.00 per month toward a security deposit payment and this was confirmed in writing with him on November 12, 1984. The landlord submitted $20.00 to the Rentalsman's Office and then declared bankruptcy in December 1984.

The Rentalsman subsequently filed a claim on the tenant's behalf with the Trustee in the bankruptcy for the landlord. In a letter dated January 6, 1986, the tenant was advised by the Rentalsman's Office that the landlord had been discharged from bankruptcy and there were no funds to cover the return of the security deposit, other than the $20.00 which had already been forwarded to her. The Rentalsman's file was then closed.

In reviewing the sequence of events in the handling of the security deposit dispute, we did have some concern as to whether it was managed as effectively as possible. We noted that approximately nine months had elapsed between the first request being sent to the landlord to submit the security deposit and action being initiated regarding prosecution. It also appeared that once prosecution was discussed more seriously with the landlord, it may have motivated him to submit some money to the Rentalsman's Office.

While the landlord may have been in an unfortunate financial situation, he had been advised in May 1984, that he must remit the security deposit and if he did not comply, the Rentalsman's duty in this matter was clear. No money was submitted until after action was initiated around prosecution in November 1984. One can speculate that if more decisive action had been taken sooner it may have motivated the landlord to submit more, if not all, of the security deposit to the Rentalsman's Office before declaring bankruptsy.

From a review of this matter, it did appear that consideration should be given to making an ex gratia payment to the tenant as I felt that the delays in the handling of the security deposit by the Rentalsman's Office may well have contributed to her not receiving a refund of more than $20.00.

Our position on this matter was reported to the Office of the Rentalsman. The Rentalsman's Office responded that the Officer in charge of the file felt that an earlier move for prosecution would have resulted in no money being recovered as the landlord would have filed for bankruptcy as soon as the charges were laid against him. However, it was agreed that nine months was too long to resolve a security deposit file and an earlier referral for prosecution would have been more appropriate.

The Department agreed to make an ex gratia payment to the tenant for the balance of the security deposit. She was subsequently reimbursed a cheque for $192.55. This file was concluded as resolved.

86-290-14 Manitoba Housing

Complainants feel undue delay by Department caused application to be disqualified from Residential Rehabilitation Assistance Program.

In June 1986, I received a complaint from a couple who had expressed concerns relative to the manner by which their application for assistance under the Residential Rehabilitation Assistance Program was handled by the Department of Housing.

The couple, residing in a small rural town, advised our office that around August 1985, they had made contact with the Department of Housing representative for their area inquiring about the possibility of obtaining a loan or a grant for the purpose of carrying out some necessary work to their home. They advised that a steady supply of water was not readily available to them and that they essentially had to truck water in from several miles away. They had contacted the Manitoba Housing representative for the area requesting information concerning available funding for the purpose of digging a well and installing a complete plumbing system including a submersible pump, a septic system and indoor plumbing.

The complainants had been advised by the housing representative that there were, in fact, funds available through the Residential Rehabilitation Assistance Program, and while the guidelines were established by the Federal Government, the Program was administered provincially. One of the qualifying criteria was that the combined income for a two income family should be less than $23,000.00. As the husband's income for the previous year was negligible due to a recent business acquisition, the family satisfied the guidelines established relative to the income ceiling.

The couple then completed an application for assistance under the Program and provided information about their income status as well as copies of previous years income tax returns to the local representative. The application was signed October 7, 1985, and was forwarded to the Winnipeg office for further handling. This information was then reviewed by the Winnipeg office and a recommendation was submitted to Canada Mortgage and Housing Corporation (CMHC) on October 31, 1985. This application, along with the recommendation, was received by CMHC on November 4, 1985, but was subsequently returned to Manitoba Housing around the middle of November for further income documentation. Manitoba Housing advised that representatives within the Department had made several attempts to make contact with the family, but to no avail.

With respect to the Department's attempt to make contact by telephone, the couple advised our office that both residential and work numbers had been provided to the Department and that the couple was accessible by telephone during the working day. The Department, however, finally wrote to the couple on December 2, 1985, requesting that contact be made with the Department by telephone. The "additional information" was secured by way of a letter on December 20, 1985, and because at that time the 1985 budget was depleted, the application for assistance was held in abeyance. Due to the lack of funds, only severe cases involving individuals with relatively low income were being looked at by the Canada Mortgage and Housing Corporation. As a result, the couple's application was held pending the availability of funding for the 1986 budgetary year. However, new qualification guidelines came into effect in 1986 under which the family income exceeded the eligibility requirements and hence the application was denied.

The complainants were essentially of the opinion that the processing of their application for assistance under the Residential Rehabilitation Assistance Program by Manitoba Housing was subjected to undue delays and as a result, the application had been disqualified. Assistance from their local MLA and their Member of Parliament was unsuccessful and the couple then wrote to my office outlining their concerns.

My office wrote to the Assistant Deputy Minister of the Program Delivery Branch of Manitoba Housing requesting information to clarify the matter. In responding to my initial letter of inquiry, the Department advised that Manitoba Housing acts solely as the delivery agent for CMHC. They advised that there were many other homeowners who had been rejected for the same reason as the couple complaining to our office and that CMHC refused to make any exception.

In the course of our office reviewing this matter, it was noted that at the time the Department's personnel contacted the couple to obtain information relative to completing the application, it was felt that the application could be processed by using just the wife's income as the husband had only recently started his business. This information was provided to the Canada Mortgage and Housing Corporation who in turn questioned the level of family income. They felt that the husband must have some income to declare and that further information was required through UIC, pay stubs, or any other verification of income from the employer to show what the husband actually earned. This information, according to Manitoba Housing, was not received until the latter part of December 1985. The complainants took issue with these comments claiming that the information about the husband's income was provided to the representative for Manitoba Housing by copies of income tax statements. These, according to the complainants, would provide verification of all income earned by both parties and these statements had been provided to the local representative prior to the application being submitted. With respect to the further income documentation, the complainant indicated that the information provided around the middle of December was in no way different from the information previously provided and it did not add anything new or alter the facts previously provided to Manitoba Housing.

Having reviewed the matter, I indicated that it would appear that Manitoba Housing was aware of the combined income of the couple in advance of the application being submitted. I further indicated that it seemed that this information was provided by the homeowner to the local representative and that it was the Department that felt that the application could be processed by only using the wife's income. I further stated that insofar as the guidelines for the assistance under the Residential Rehabilitation Assistance Program is based on household income, it would appear that as a result of the omission by the Department, the couple had been aggrieved and denied of a grant and a loan in the amount of $7,642.00.

On April 3, 1987, I received information from the Director of the Client Services Branch of Manitoba Housing confirming that special assistance had been approved for the couple by the Manitoba Housing and Renewal Corporation Board of Directors. The assistance approved by the Department comprised of a forgivable grant of $3,575.00 to be earned over a five year period and a repayable loan at nine and one-half percent interest rate covering the remaining costs (over and above those covered by the grant) required to carry out renovations as determined eligible under the Residential Rehabilitation Assistance Program in October 1985. As final costs for repairs had not been established at the time the Department confirmed approval of the special assistance, our office was advised at a later date that the total amount of assistance provided to the family consisted of a grant of $3,575.00 and a repayable loan of $4,956.16. With this matter being satisfactorily resolved, our file was closed.

83-360-8 **Manitoba Natural Resources**

Dissatisfied with Departmental Investigation and lack of disciplinary action to a supervisor following a complaint of sexual harassment.

In May 1983, the Ombudsman received a letter from an ex-government employee who alleged that during her term of employment with the Department of Natural Resources she had been sexually harassed by her supervisor. Our file was open for several years with many interactions occurring between the Department, the Civil Service Commission and our office, which prolonged the finalization of our involvement in this case.

Our complainant, who lived in a small northern community, was employed with the Department on a temporary basis between November 1981 and March 1982. She indicated that during the months of February and March 1982, her supervisor, a Natural Resources Officer, had made numerous suggestive comments to her. She indicated that the verbal advances became more personal and suggestive, even with her clear discouragement. Our complainant advised that she had originally planned to re-apply for the same job when it was opened as a full time position, however given the circumstances she realized it would be impossible to work with her supervisor. She felt however that as her term was to expire shortly, she could continue to work until the end of her term.

Our complainant cited a number of incidences relating to her allegations of verbal and physical sexual abuse. She indicated that she chose not to tell anyone about the alleged conduct of her supervisor except her husband, as she was afraid. However, according to our complainant, about a year later an RCMP Officer had heard rumors of the incidents and approached her suggesting she report her supervisor.

Our complainant advised that she initially reported the matter to the Department but she was dissatisfied with the action taken following the Department's investigation. The investigation involved sending the Special Assistant to the Minister of Natural Resources and the Special Assistant to the Minister of Agriculture to the remote community to interview the complainant. These Special Assistants spoke to the supervisor who was provided an opportunity to respond to the allegations. The supervisor reportedly admitted to some of the allegations, appeared remorseful and requested that a meeting be arranged between the Special Assistants, the complainant, her husband and himself. At the meeting the supervisor tendered a verbal apology for sexually harassing our complainant who, at the time, accepted the apology. The supervisor was also brought into Winnipeg and was verbally reprimanded by the Deputy Minister.

Following the apology, our complainant advises that the supervisor continued to spread rumors about the sexual harassment in the community. Although she had received a verbal apology from the supervisor involved following the Department's investigation, she felt the supervisor's apology was insincere and she forthwith reported her concern to the Department.

In a letter to our office our complainant advised that after the apology, rumors were coming back to her that the supervisor was saying that he sexually harassed her for the good of the Department to make her quit and that he had to do a lot of smooth talking to get out of the situation. Our complainant advised that she wrote the Minister of the Department advising that she wanted more action and she subsequently received a letter from the Deputy Minister suggesting that she consult a lawyer or the Human Rights Commission. We noted that the Deputy Minister had advised our complainant that in his view a disinterested investigation would provide a foundation upon which a judgment could be made. It was after receiving this letter that the complainant wrote to my office requesting assistance.

Inquiries were made with the Manitoba Human Rights Commission and we were advised that, due to time limitations, the Commission was statute barred from investigating the complaint. We also understood that our complainant did not want to pursue the matter in Court as her lawyer had advised her that the Court would not provide the remedy that she wanted, specifically the transfer of the supervisor from the small community. We wrote to the Deputy Minister advising him of the above and noting the feeling of our complainant that the verbal apology from the supervisor was not sufficient and that the supervisor was the cause of rumors discrediting her in the community. We referred the Deputy Minister to his letter to the complainant which indicated that he would be supportive of a disinterested investigation and suggested that his Department either investigate the matter further or refer the matter to the Civil Service Commission for investigation.

The Deputy Minister responded to our letter advising that unless he had much stronger information on which to base the action he would not request the Civil Service Commission to investigate the matter.

In view of the Department's position our office made further inquiries to determine whether there was any evidence which would support the need for a further investigation into the allegations. A number of people were interviewed and information was gathered which supported our view that the investigation carried out by the Department and the discipline imposed was inadequate, particularly when dealing with the issue of continuing effect. I was concerned that the verbal reprimand had not been recorded on the supervisor's personnel file. As well, I was of the opinion that the decision of the Department of Natural Resources not to pursue further the ongoing problem, was wrong. Accordingly I submitted a report to the Department and recommended that the whole question of the alleged sexual harassment of the complainant by an employee of the Department of Natural Resources be investigated by the Civil Service Commission. I also recommended that the Civil Service Commission be provided with a copy of my report with a request that it review the adequacy of the investigation carried out by the Department, the appropriateness of the discipline utilized and the lack of documentation in the employee's personnel file relating to this discipline.

The Minister responded with his acceptance and as well, the Deputy Minister responded advising that he would continue to co-operate but that the investigation by the Civil Service Commission was an unnecessary public expense. The Deputy Minister advised that he did not feel defensive about his judgments made in the matter and it remained with the Civil Service Commission to decide if they were or were not mistaken judgments.

The Civil Service Commission completed its investigation in November 1984. The Commission's investigation covered two areas; 1) the Department's initial investigation and subsequent action, and 2) the supervisor's behaviour pertaining to our complainant since his apology. The Commission found that the Department's investigation of the complaint was inadequate. The Commission reported that the kind of discipline, a verbal reprimand to the supervisor with nothing appearing on his record, was inadequate. In addition, the Commission's investigation supported the complainant's concern that the supervisor's apology was insincere.

The Commission recommended that the Deputy Minister write a letter to the complainant explaining the situation indicating that the Department in no way condoned the supervisor's verbal harassment. The Commission recommended that the supervisor receive a written reprimand as a result of the investigation as it had been determined that there was some doubt as to the sincerity of his apology.

The Civil Service Commission report was discussed with the Deputy Minister and when questioned as to whether he intended to implement the recommendations of the report he advised he intended to do nothing as far as the report was concerned and did not intend to implement any of the recommendations. In April 1985, the Deputy Minister wrote to our office stating that he did not intend to accept the recommendations of the Civil Service Commission. The Deputy Minister stated that the supervisor had admitted verbal harassment and apologized. The Deputy Minister noted that the supervisor had received a verbal reprimand and that subsequent actions did not in his view lead him to believe that the supervisor's apology was insincere. The Deputy Minister stated, "he is a first rate Natural Resources Officer. I want no blemish on his record until or unless I am convinced that he had taken insufficient punishment as a result of his offence".

We were of the view, following our initial investigation and a review of the report prepared by the Civil Service Commission, that the apology tendered by the supervisor was not sincere as evidenced by his further actions. We were satisfied that as a result of these further actions our complainant was subjected to rumors, embarrassment and certainly emotional turmoil. We were not satisfied that the initial action taken by the Department with respect to the harassment issue was adequate and given the Officer's position as supervisor, a more weighty discipline would appear to have been in order.

The lack of action by the Department following the Commission's report raised concerns which we felt must be addressed. On reviewing the matter, I felt the Department's handling of the complaint was inadequate and inappropriate. Accordingly, I wrote the Minister and recommended that:

1) That a record of the oral reprimand for the acknowledged harassment of the employee be included in the supervisor's personnel file.
2) The Department give consideration to further disciplinary action in the form of a written reprimand to the supervisor as recommended in the Civil Service Commission report.
3) Executive Assistants not be given the responsibility to formally investigate internal personnel and employment matters which should be referred to either the Civil Service Commission or the Department's Personnel Branch.
4) A letter of apology be forwarded to the complainant acknowledging the inappropriateness of the initial harassment towards her, acknowledging the inappropriateness of the subsequent actions following the supervisor's verbal apology, advising the complainant of the outcome of the investigation by the Civil Service Commission and advising the complainant whether or not disciplinary action was taken.

The Minister responded to my recommendations advising that, in his opinion, the Department's investigation was less than it should have been. The Minister advised that in future, as a matter of practice, complaints will be dealt with more appropriately by the Department's Human Resources group and the Civil Service Commission. The Minister also advised that due to the passage of time it would be inappropriate to re-open this event and to seek further redress. He requested that should I wish to discuss this case further, that he would be pleased to meet with me.

The complainant was contacted in her new home town and she advised that time was not a factor as far as she was concerned. She advised that since her complaint to the Department about the continuing effect on her, she had not received any response. She felt she was owed an explanation as to what took place following her allegation that her supervisor continued to spread rumors about her in the community and she indicated she would like an apology from the Department on how the matter was handled and she was prepared to wait ten to fifteen years to get it. The complainant indicated that one of the main reasons she had left the area, her family and friends was because of the rumors being spread by her supervisor. She indicated she felt she was entitled to some acknowledgement of the wrong doing of her supervisor.

I wrote the Department again raising concerns with the Department's position that it intended to take no further action. I advised the Minister that in considering the seriousness of the allegations and the results of the Civil Service Commission's investigation, I did not feel that the passing of time resolved the matter nor did I feel that time should prevent the Department from taking whatever reasonable action was deemed appropriate. I commented that the passage of time in no way righted the wrongs which were done to our complainant by the supervisor. I advised that I felt my recommendations were reasonable and appropriate and I provided some further comments on my recommendations.

Regarding recommendation 1), that being, that a record of the oral reprimand for the acknowledged harassment of the complainant be included on the supervisor's personnel file, I was still of the opinion that the supervisor's personnel file should include the fact that an oral reprimand was given for sexual harassment.

Concerning recommendation 2), relating to further disciplinary action in the form of a written reprimand to the supervisor, I acknowledged that there may be valid reasons for not taking further action so long after the fact. However, I emphasized that I felt the Department erred by failing to accept and implement the Civil Service Commission's recommendations in 1985.

As previously indicated, recommendation 3), relating to Executive Assistants being given the responsibility to formally investigate internal personnel and employment matters, I advised that I was pleased to note that the Department had accepted this recommendation and that as a matter of practice, future complaints would be dealt with more appropriately by the Department's Human Resources group and/or the Civil Service Commission.

Regarding recommendation 4), I felt that that recommendation should stand. I advised the Department that, in my view, its reluctance to acknowledge the validity of our complainant's grievances seemed to indicate more concern for the offender rather than the victim in this matter. I advised the Minister that I was giving consideration to making a public report on this case and I indicated that the Department could make further representations by a particular date following which further action would be taken.

The Minister's Office contacted my office to arrange for a meeting to discuss the case. My Assistant and I met with the Minister and Deputy Minister and a fruitful discussion took place. Some question was raised about the appropriateness of recording on an individual's file the fact that an oral reprimand had been given. Accordingly, it was agreed that our office would raise this concern with the Civil Service Commission to seek clarification on the consistent and equitable handling of such reprimands.

Discussion took place on the practicality of taking further disciplinary action against the supervisor at this time. It was agreed that further action would not be appropriate but I was satisfied that the Department had now given fair consideration to the matter. It was also agreed that the Department would forward a letter of apology to our complainant.

Subsequently we received a copy of a letter to our complainant from the Deputy Minister stating that the incident was investigated, disciplinary action had been taken respecting the wrongful actions of the supervisor and that the Department does not and will not condone sexual harassment under any circumstances. The Deputy Minister expressed his regret that our complainant was subjected to the events of 1982 and offered, on behalf of the Department, sincere apologies.

Despite the limited information in the letter, I felt that the Department was sincere in its apology and that the Department had taken steps to prevent similar situations from arising. I was, however, disappointed that the Department did not see fit to provide our complainant with information relating to the outcome of the investigations conducted which we feel would have clearly shown her that her concerns were found to be valid. Accordingly, we wrote the complainant outlining what had taken place and providing sufficient detail which we felt would assist in clarifying the matter.

In other cases involving the Department of Natural Resources, I have referred to the need for the Department to take appropriate and timely action to resolve disputes in a fair and equitable manner. I believe in this case that if the Department had taken appropriate and timely action to resolve this dispute in a fair and equitable manner at the outset, the problem would not have evolved to such an extent. The matter was investigated by the Department, by our office and by the Civil Service Commission resulting in more than one report to the Department recommending that appropriate action be taken. I sincerely hope that, in future, the Department will not require this kind of probing before reasonable action is taken.

83-360-10 **Manitoba Natural Resources**

Employee alleges retaliation by Department as a result of Ombudsman's investigation.

In 1986, my office concluded an investigation into complaints received from staff of the Regional Services Branch of the Department of Natural Resources relating to the conduct of the Director of the Branch and the action taken by management to address their concerns.

In summary, from our investigation, I concluded that the staff had raised some valid concerns, that management was aware of the validity and seriousness of the concerns and that management had not addressed the concerns appropriately.

Shortly after closing our file we received a letter from one of the employees who had raised concerns about the management problems in the Branch. The complainant felt that he had been subject to prejudicial and retaliatory actions by the Department as a result of raising concerns. The letter cited a number of actions by the Department and in particular actions by the Assistant Deputy Minister which the employee felt provided grounds for his belief.

From a review of the actions taken by the Department affecting our complainant, I was unable to conclude that for the most part, the actions were wrong, unreasonable, or were taken for retaliatory or prejudicial purposes. However, inquiries relating to actions taken by the Assistant Deputy Minister involving the employee's performance appraisal raised some concerns.

Our inquiries showed that a performance appraisal was completed on the employee by his supervisor. The appraisal indicated that the employee was meeting the position requirements and he received a rating of 81 to 100% on the achievement of objectives. We understand that the Assistant Deputy Minister, on receipt of the appraisal, raised some concerns and referred the matter back to the employee's supervisor requesting that he meet with previous supervisors of the employee to reconsider his performance. After further consideration the employee's appraisal remained unchanged.

Nevertheless, the performance appraisal was placed in the employee's Departmental personnel file with the following additional remarks placed on the appraisal by the Assistant Deputy Minister, "I reviewed with (employee) his poor leadership skills, lack of judgement and commitment to the Department. He has lost the confidence of senior colleagues in this sensitive position. Merit increment should be approved since the appraisal is late."

The employee advised our office that he was not aware that these remarks had been placed on his performance appraisal and subsequently placed in his file and that he only found out after raising questions with the Department's Human Resources Branch about the delay in receiving his annual merit increase.

Although we sought clarification on this matter from the Department, the initial response received did not address the concern. Therefore, the Assistant Ombudsman spoke to the Assistant Deputy Minister raising concerns relating to the process by which the negative remarks were placed on the employee's performance appraisal and subsequently placed on the personnel file. During the conversation the Assistant Deputy Minister indicated that the basis for the negative remarks on file was that the employee had lost the confidence of his colleagues and had shown poor leadership when he joined with subordinates in raising concerns about problems in the workplace. It was agreed that the Assistant Deputy Minister would request the Department's Human Resources Branch to review the appropriateness of the action taken relating to the performance appraisal.

The Assistant Ombudsman wrote to the Assistant Deputy Minister confirming the conversation following which we received a letter which did not in any way address whether the process followed by the Assistant Deputy Minister was appropriate. Rather, the letter simply stated the Department's practice. Although it was evident that the Assistant Deputy Minister had not followed the Department's practice in the manner in which he added negative remarks to the employee's performance appraisal, this was not confirmed, nor did he advise of any intended action to rectify the situation. This I found unacceptable.

The lack of an appropriate response by the Assistant Deputy Minister resulted in the need for further action by our office, action which I suggest would have been unnecessary had a proper response been received. The Deputy Minister was contacted and our office received a letter acknowledging that the practice followed by the Assistant Deputy Minister in conducting a performance appraisal on the employee departed from the Department's practice. I was, however, dismayed to note that the Deputy Minister was suggesting that the employee was at liberty to appeal the appropriateness of the comments made on his performance appraisal. I would have thought that with all that had taken place relating to this situation, the Department would have wanted to take appropriate action to resolve the matter rather than suggest that the matter be prolonged by further appeals.

I wrote to the Deputy Minister raising my concerns with the situation. I noted that I found the Assistant Deputy Minister's rationale for adding negative remarks to the employee's performance appraisal to be disturbing.

I noted that our previous investigation had shown that the Assistant Deputy Minister had acknowledged the serious behavioural problems by the Regional Director which had caused staff to raise concerns. I commented that our investigation had showed extensive staff discontent with the Director's behaviour and it appeared that efforts were made by our complainant to raise the concerns at the appropriate levels to assist in resolving the matter. It appeared to me that it was this action by our complainant which resulted in negative remarks being placed on his performance appraisal. It appeared to me that the Assistant Deputy Minister was penalizing this employee for raising concerns which were previously acknowledged by the Assistant Deputy Minister himself to be valid. I could only conclude that the

Assistant Deputy Minister's actions were unreasonable, unfair and vindictive.

I advised the Deputy Minister that I was at the point where I was considering a formal recommendation to the Minister which would include a recommendation that the negative remarks added to the employee's appraisal by the Assistant Deputy Minister be removed. In addition, I advised that it was of increasing concern to me that our office continued to become extensively involved in personnel problems which probably would not have evolved to such an extent if the Department had taken appropriate and timely action to resolve the disputes in a fair and equitable manner.

I referred to previous cases our office had been involved in whereby I felt that if management had acted fairly and reasonably at the outset, concerns may have been resolved by the Department and our office may not have been approached to investigate the matter.

Soon after receiving my report, the Deputy Minister contacted our office and advised that he had instructed that the remarks in question contained on the employee's performance appraisal be deleted and removed from his file. This was confirmed in writing by the Deputy Minister and our file was concluded showing this complaint to be resolved.

87-360-5 **Manitoba Natural Resources**

Difficulties involving application to lease lot in provincial park.

Our complainant wrote us regarding the status of an application for a 21 year lease on a lot situated in a provincial park. Over the past years, the complainant had been issued a yearly permit which had been renewed annually by the Department.

Our complainant indicated that in May, 1986, he had been advised by the Department of Natural Resources that the provision of a lease could not be accommodated as the state of the cabin on the lot had deteriorated. The Department had advised that they had inspected the site and in their view, the cabin had not been maintained over the past five years or longer, and on a number of occasions the cabin had been found unlocked. In considering the present state of the cabin, the Department felt that a lease should not be issued and the continuation of the site under permit should come to an end. In May 1986, the Department asked our complainant to complete a "Surrender of Permit" within 30 days should he not be able to attend to the restoration and security of the cabin by the end of 1986. Our complainant was advised that when the "Surrender of Permit" was received, the fees would be cancelled and the remains of the cabin would be demolished.

It was noted that the Department felt the cabin had some possible historic value. Accordingly, the Department advised our complainant that prior to proceeding with the demolition of the cabin its historical significance would be recorded and photographs would be taken to capture the technical aspects of the construction for the Department's records.

Dissatisfied with the Department's position in this matter, our complainant appealed the issue in June 1986 by way of a letter to the Minister of Natural Resources. Our complainant advised the Minister that the hunting cabin had been in his family for between 60 to 70 years. His family had paid the annual fees but was hoping to receive a longer lease which would be an incentive to improve and secure the property for future generations of his family. Our complainant had realized the need for repairs and had talked with an engineer as to how structural improvements could be made. Through the years, our complainant's family had found that it was a better policy to leave the cabin unlocked as there had been little or no damage done to the cabin when it was left this way.

Our complainant's letter of June, 1986, was acknowledged by the Minister's Office. Following this acknowledgement, staff had been in contact with him, however, he had not received further information or correspondence regarding the status of the leased property. When our complainant contacted us in March, 1987, he was understandably quite frustrated over receiving no response from the Department.

Our office made inquiries with the Deputy Minister of the Department. Shortly thereafter, we were informed that the matter had been resolved to the satisfaction of our complainant as the Department had approved the continued use of the remote cottage lot subject to a number of conditions. The lease would be granted when the site was upgraded according to the requirements listed for vacation home lots and private lot properties within provincial parks.

We contacted our complainant and confirmed that the matter had been resolved to his satisfaction. Our complainant advised that he was pleased with the outcome of the case and that upon our office's involvement, the response from the Department was 100% better. I, too was pleased with the quick action taken by the Department following our enquiry.

85-390-1 **Manitoba Northern Affairs**

Feels Department's guidelines re: water and sewer services are inappropriate.

A complaint was received from a Northern Community Council indicating that some residents had experienced considerable frustration relating to the water and sewer hook-up guidelines. It was indicated that, according to the Department of Northern Affairs policy, in order to connect into the main water and sewer lines, an applicant has to assume the total cost of the initial installation, plus all subsequent costs of repair and maintenance. This applied to the distance between the community distribution line and the applicant's dwelling. If the applicant happened to live across the road from the water and sewer lines, the applicant would have to absorb the total cost of crossing the public roadway. The Council also raised concern about problems it could experience if at some time the water and sewer hook-up had to be disconnected for failure to pay the service charges. The Community Council felt it would be in a difficult legal position to turn off the privately owned valve should the customer oppose such action.

After our office had informed the Department of Northern Affairs of the complaint received, we were advised that the practice which the Department utilized in the case of our complainant was a common practice and used extensively in other jurisdictions throughout the Province. Their position was that a random survey of appropriately sized villages and towns within the Province supported their position.

in our investigation, we discovered that there was only one other Northern community in addition to our complainant community where water and/or sewer services were supplied under the same terms and conditions. In other communities, applicants only had to pay for that portion of the costs associated with the line which was on their property. That portion of the line falling outside their property was paid for by either Northern Affairs, or out of general community funds. Accordingly, all applicants in other communities paid a standard fee for service regardless of where the main line was located.

In reviewing The Municipal Act which is applicable in the Southern portion of the Province in the supplying of water and sewer services to communities, it is noted that the connection charges may be at a uniform rate based on average costs. While the legislation clearly states "may", we were advised by municipal officials that it had in fact become practice to assess a standard fee for hook-ups. This equalized the costs for all residents regardless of where the main line was located in relation to their property.

We noted that The Northern Affairs Act, which is applicable in the area administered by Northern Affairs, gives the Department the discretion to determine the basis on which applicants would be assessed costs for sewer and water hook-ups. From our review, we were also aware that Northern Affairs had exercised its discretion and decided that in the case of two Northern communities, applicants for water and sewer service would be required to cover the cost of hook-up to the main line whereas in all other Northern communities, applicants would only be responsible for costs of providing service to the property line. While we recognize that the Department has discretionary power in this matter, the case did raise the question of whether the decision was discriminatory. The request by our complainant community that it be treated like any other Northern community did, in our view, appear to be reasonable.

We wrote to the Department and were advised that there had been a change in policy in that while initially applicants were responsible for all hook-up and maintenance costs, this proved to be unacceptable due to problems relating to poor workmanship at the connections. This resulted in a change of policy in 1982 whereby the Department made itself responsible for providing services to the property line in the case of a new installations. It was felt though, that in order to maintain uniformity in the case of our complainant community, subsequent applications for hook-ups would still be treated on the basis of the old policy and not according to the policy utilized in all other communities.

When it became obvious that Northern Affairs was not prepared to change its position, and because we felt rather strongly that the request by our complainant community that it be treated the same as other Northern communities was reasonable, the Minister of Northern Affairs was contacted. In our letter to the Minister, we indicated that our information was that in all of the area administered by Northern Affairs, our complainant community was the only one where residents had to pay the total cost of hook-up to the main lines. Prior to giving final consideration on what action my office should take on this matter, I invited the Minister's comments. The response received from the Minister indicated that upon having reviewed this issue, the decision had been made that Northern Affairs should and would pay all costs associated with sewer and water connections in the area from the main line to the applicant's property line; furthermore, that all those customers who had already paid for these costs, would be reimbursed. Subsequent documentation provided to our office indicated that the reimbursement was in fact taking place.

The process of resolving this particular complaint was somewhat lengthy, but I was pleased that the Department of Northern Affairs recognized the inequities and that these should be addressed. I concluded my file with the notation that the matter had been resolved.

87-170-3 **Manitoba Telephone System**

Alleges telephone reconnection fee unfair after service was disconnected without warning.

An individual complained to our office that the Manitoba Telephone System (MTS) acted unfairly by charging him a $19.55 reconnection fee after disconnecting his telephone service without notice. At the time of disconnection, his telephone account was in arrears by $294.02.

The complainant informed us of an unusual sequence of events. He said that five days after service was cut he paid the arrears in full. Telephone service was restored as a result. However, he said, five days after that he received a disconnection notice concerning the satisfied arrears. Subsequently, MTS charged him the reconnection fee of $19.55, which he alleged was unfair.

Our office requested that MTS review this matter and provide us with information to assist in clarifying the situation. In prompt response to our request, the utility informed us of the steps it would be taking to remedy the situation. MTS had investigated the complaint and arranged to remove the reconnection fee by crediting the individual's next telephone bill by $19.55. This matter, then, was resolved.

86-170-8 Manitoba Telephone System

The case of "the wandering drill".

I received information from an individual who was basically concerned with the manner by which discussions with the Manitoba Telephone System were conducted relative to damages caused to her home by a Manitoba Telephone System worker in the course of installing a telephone jack.

Apparently, the homeowner had contacted Manitoba Telephone System and had made arrangements to have a telephone jack installed in her bedroom. The Manitoba Telephone System worker met the homeowner while the latter was leaving for work and was advised that the location for the jacks were marked on the wall.

In running the lines for the jack, the worker realized that he would be unable to drill downwards through the floor and therefore attempted to drill a hole upwards from the basement. In so doing, the installer misjudged the measurements and drilled up through the hardwood floor, through the frame of the waterbed and through the mattress as well. Having realized what had taken place, the worker contacted the homeowner at her place of work, advised her of the problem and asked for the necessary attachments to drain the waterbed. This information was given and the worker proceeded to empty the waterbed.

Needless to say, the drilling of a hole through the waterbed caused water damage to the floor and surrounding area. The worker, with the assistance of the Area Manager who had arrived at the home, proceeded to soak up the water by using towels from the soiled laundry and a plastic pail was placed in the basement to collect the dripping water. The blankets and bed sheets were then rolled up and moved to another room.

The Area Manager then took measures to temporarily stop the leakage by placing a band aid over the hole in the waterbed mattress. A waterbed repair kit was then purchased and the worker and the Area Manager proceeded to patch up the mattress. The installation of the telephone jack was then completed and the Area Manager left a calling card for the homeowner to get in contact with him.

The homeowner made contact with representatives of Manitoba Telephone System in an attempt to negotiate a settlement for the damage caused to her home. She provided the Corporation with a list of items which she believed ought to be replaced. Also, she requested compensation for loss of time and inconvenience.

In responding to the homeowner's demands, Manitoba Telephone System did not deny that one of their employees had caused damage to her home in the course of installing a new telephone jack. However, Manitoba Telephone System felt the amount claimed by the homeowner was excessive. As a result, further negotiations ensued and an agreement was eventually arrived at whereby the homeowner was provided with a settlement for damages sustained to her property. Manitoba Telephone System also provided their apologies for the inconvenience caused by this incident. By virtue of the fact that the parties involved were able to negotiate a mutually agreed settlement, thereby reaching a resolution to this problem, there was no need for the making of a recommendation on this matter. The complainant confirmed that compensation was provided in exchange for a final release and as a result we concluded our involvement in this matter.

86-410-5 Workers Compensation Board

Compensation claim dispute.

We received a complaint from a solicitor acting on behalf of his client who was injured during the course of his employment in 1959. We were advised that in the process of lifting a 400 lb. weight with a hoist, his client's right knee was struck which resulted in a fractured kneecap which was removed in 1962. X-rays indicated that degenerative changes were also present. The implication of this was that his client was unable to return to his former employment.

The injured worker did attempt to work at a different job, but a medical specialist concluded that the stress and strain of the job was a factor in creating osteoarthritis. The position the solicitor took was that while there was no disagreement that his client had degenerative changes in both knees, a case could be made that his work had aggravated, enhanced or accelerated his disability. This position was based upon the opinions of two medical specialists which he believed should result in a new hearing being held.

Attendance was made at the Workers Compensation Board Offices where the relevant file was reviewed. As a result of this review, we found that there were two medical opinions by specialists on file which supported our complainant's position that the 1959 injury had enhanced/accelerated the general arthritic condition. Our file review did not indicate that these two medical opinions had received consideration by the Medical Department at the Workers Compensation Board. Accordingly, we requested information on the manner in which the Workers Compensation Board had given consideration to these medical opinions.

The response provided by the Workers Compensation Board indicated that the Medical Services Department at the Workers Compensation Board had not provided any comments in relation to the medical opinions by the two specialists. We were advised that in this particular case, the Board of Commissioners held a hearing and had considered all available evidence. The Board also advised that from a review of the basis on which they had rendered the previous judgement, responsibility could not be accepted for this claim.

We had some concern about the decision-making process in this claim. The Workers Compensation Act provides for the convening of a Medical Review Panel when the medical opinion of the Medical Officer at the Workers Compensation Board differs from the medical opinion of the physician selected by the injured worker. In this particular case where the two medical opinions of the physicians selected by our complainant were not reviewed by the Medical Services Department, it created a situation whereby a difference of medical opinion did not exist. Consequently, a situation had been created whereby our complainant would not be able to request that his claim go before a Medical Review Panel. Our concern in this regard was that injured workers should have full access to, and receive all benefits and considerations as provided for by The Workers Compensation Act. Accordingly, the Chairperson of the Workers Compensation Board was advised of our concerns.

We were advised by the Board of Commissioners that upon having given consideration to our concerns, they would request their Medical Officer to give an opinion relative to the two opinions of the medical specialists who had supported the injured worker's claim.

The conclusion reached by the Medical Officer at the Workers Compensation Board was that the injury at work and the subsequent stress and strain on his knees in subsequent employment, had not accelerated or enhanced the pre-existing condition. The Board of Commissioners then took the position that there was indeed a difference of medical opinion between the Workers Compensation Board Medical Officer and the two specialists who had examined and offered their opinions of the injured worker. The authorization was then given for the convening of a Medical Review Panel.

I was pleased with the final position taken by the Board of Commissioners whereby our complainant would be able to have his condition reviewed by a team of medical specialists. My file was closed with a notation that assistance had been rendered.

Complete List of Complaints

Agriculture — 9

87-100-0001	Concerned that works approved by the Water Services Board had not been completed.	Pending
87-100-0002	Dispute over crop insurance claim and outstanding premiums.	Pending
87-100-0003	Disagrees with assessment of loss by the Manitoba Crop Insurance Corporation.	Pending
87-100-0004	Farmer alleged that he was unfairly denied assistance by the Manitoba Disaster Assistance Board	Discontinued (Client)
87-100-0005	Requesting further investigation re alleged improper leasing of Crown Land.	Pending
87-100-0006	Dispute over premiums involved in contract with Manitoba Beef Commission.	Not Supported
87-100-0007	Feels he has been unfairly billed by the Manitoba Crop Insurance Corporation.	Pending
87-100-0008	Alleges Crown Lands Branch not abiding by agreement.	Pending
87-100-0012	Concerned about crop insurance coverage and premiums	Pending

Attorney General — 57

87-110-0001	Alleges improper demand for payment from Legal Aid of court fees.	Not Supported
87-110-0002	Concerned over length of time it is taking Public Trustee to settle estate.	Resolved
87-110-0003	Alleges unfair treatment by Liquor Control Commission re application for occasional permit.	Not Supported
87-110-0004	Feels he should be entitled to further benefits from Criminal Inquiries Compensation Board.	Information Supplied
87-110-0005	Alleges delay by Human Rights Commission in handling complaint.	Assistance Rendered
87-110-0006	Alleges delay in mailing Court Order caused loss of opportunity to appeal.	Discontinued (Client)
87-110-0007	Concern over actions of Crown Prosecutor's Office re court case.	Assistance Rendered
87-110-0008	Alleges breach of trust and confidentiality.	Pending
87-110-0009	Mix-up re court appearance and release from custody.	Resolved
87-110-0010	Disagrees with Legal Aid's refusal of application for certificate.	Not Supported
87-110-0011	Alleges undue delay by the Human Rights Commission in investigating complaint.	Information Supplied
87-110-0012	Allegedly having difficulties with Maintenance Enforcement Office re maintenance payments.	Assistance Rendered
87-110-0013	Difficulty obtaining witness fees.	Resolved
87-110-0014	Alleges Maintenance Enforcement Office did not enforce court order.	Not Supported
87-110-0015	Questions regarding the fairness of procedures for issuance of Special Examiner's Certificates.	Pending

87-110-0016	Alleges Human Rights Commission did not properly handle discrimination complaint.	Pending
87-110-0017	Alleges Crown Attorney made unreasonable decision to drop criminal charges.	Not Supported
87-110-0018	Feels requirement to travel to Winnipeg to appeal Legal Aid refusal is unreasonable.	Assistance Rendered
87-110-0019	Feels Legal Aid should be helping him with law suit.	Assistance Rendered
87-110-0020	Alleges unfair denial of legal aid.	Information Supplied
87-110-0021	Feels Peace Officers on a Reserve should be allowed to carry firearms.	Information Supplied
87-110-0022	Dissatisfied with court actions.	Information Supplied
87-110-0023	Alleges unfair denial of Legal Aid.	Discontinued (Client)
87-110-0024	Alleges manipulation of justice by accused being allowed to have trial in French.	Not Supported
87-110-0025	Dissatisfied with the actions of the Office of the Public Trustee.	Pending
87-110-0026	Feels court office records showing unpaid fine in error.	Not Supported
87-110-0027	Denied Legal Aid Certificate.	Pending
87-110-0028	Feels the Public Trustee should be authorizing more care for client.	Not Supported
87-110-0029	Feels Inquest should be held re son's death.	Discontinued (Client)
87-110-0030	Feels Legal Aid lawyer not properly representing interest of open custody youth.	Discontinued (Ombudsman)
87-110-0031	Concern re delay in the court system.	Declined
87-110-0032	Unhappy with Human Rights Commission's investigation of complaint.	Not Supported
87-110-0033	Concerned re issuance of provincial Court summons.	Declined
87-110-0034	Complainant is unhappy with the Legal Aid's decision to not provide him with legal assistance.	Discontinued (Client)
87-110-0035	Alleges denial of good lawyer through Legal Aid Manitoba.	Not Supported
87-110-0036	Alleges delays and inadequate service by Maintenance Enforcement Branch.	Not Supported
87-110-0037	Alleges unfair denial of legal aid.	Information Supplied
87-110-0038	Has concerns re Public Trustee's control over personal and financial affairs of step-aunt.	Information Supplied
87-110-0039	Objecting to denial of legal aid.	Declined
87-110-0040	Objecting to amount of maintenance order.	Information Supplied
87-110-0041	Alleges negligence by legal aid lawyer.	Pending
87-110-0042	Seeking assistance to obtain court order required by Maintenance Enforcement Office	Resolved
87-110-0043	Alleges the Human Rights Commission is "covering up" and not investigating complaint properly.	Pending
87-110-0044	Complainant feels that his friend should not be under the care of the Public Trustee.	Pending

87-110-0045	Disagrees with cancellation of legal aid certificate	Information Supplied
87-110-0046	Objects to amount of fee charged by Public Trustee	Pending
87-110-0047	Feels Maintenance Enforcement Program should be doing more to locate ex-husband and collect support payments.	Not Supported
87-110-0048	Feels unfairly treated by family court system.	Declined
87-110-0049	Difficulty obtaining maintenance payments through Maintenance Enforcement Office.	Pending
87-110-0050	Follow-up on inquest recommendation.	Pending
87-110-0051	Concerns re actions of Public Trustee.	Pending
87-110-0052	Alleges unfair denial of Legal Aid.	Discontinued (Client)
87-110-0053	Alleges that his mother's estate is not being properly managed by the Public Trustee's Office.	Pending
87-110-0054	Feels he is being treated unfairly by the Manitoba Liquor Control Commission.	Discontinued (Client)
87-110-0055	Alleges unfair treatment by Legal Aid Manitoba	Pending
87-110-0056	Son feels legal aid should not have been granted to enable his father to take action against his mother.	Discontinued (Client)
87-110-0057	Experiencing difficulty having criminal charges laid.	Pending

Business Development & Tourism — 2

87-120-0001	Alleges harassment by Security Official employed by Manitoba Horseracing Commission.	Not Supported
87-120-0002	Alleges unjust treatment by Department.	Discontinued (Ombudsman)

Civil Service Commission — 5

87-130-0001	Alleges error made by Commission re disability insurance benefits.	Discontinued (Client)
87-130-0002	Wishes to obtain locked-in pension funds.	Not Supported
87-130-0003	Difficulties involving transfer of superannuation.	Resolved
87-130-0004	Feels information about past employment experience may be preventing him from obtaining employment currently.	Information Supplied
87-130-0005	Concern about process used by Civil Service Commission and Department in job competition.	Pending

Community Services — 181

87-140-0001	Alleges his personal safety is in danger and that a transfer is required.	Resolved
87-140-0002	Not allowed visiting rights to common law wife.	Not Supported
87-140-0003	Allegations of inappropriate action by Child and Family Services.	Assistance Rendered
87-140-0004	Alleges mistreatment by staff.	Pending
87-140-0005	Alleges mistreatment by guards.	Discontinued (Client)
87-140-0006	Monitoring of allegations of over-crowding at Remand Centre.	Information Supplied

87-140-0007	Alleges mistreatment by staff.	Pending
87-140-0008	Inmate feels disciplinary action too harsh.	Not Supported
87-140-0009	Allegations re treatment at correctional facility.	Information Supplied
87-140-0010	Alleges neglect and possible abuse of mentally handicapped person.	Discontinued (Client)
87-140-0011	Alleged that her open custody services were unfairly terminated.	Pending
87-140-0012	Alleged improper medical attention provided for her husband at Brandon Correctional Institution.	Not Supported
87-140-0013	Alleges that he was unfairly dismissed and that this decision was heavily influenced by the Department.	Not Supported
87-140-0014	Alleges lack of psychiatric and psychological treatment for inmate of correctional facility.	Discontinued (Client)
87-140-0015	Alleged that he was removed from E Block to A Block without any explanation.	Resolved
87-140-0016	Alleges unfair treatment by staff at correctional institution.	Not Supported
87-140-0017	Inmate seeking clarification re release date.	Resolved
87-140-0018	Alleged treated unfairly by Disciplinary Board.	Resolved
87-140-0019	Inmate serving intermittent sentence seeking information re his rights.	Discontinued (Client)
87-140-0020	Alleges unfair action by day care licencing officials.	Pending
87-140-0021	Seeking correction to date of birth record.	Not Supported
87-140-0022	Feels institution has unfairly subjected him to controlled visits.	Not Supported
87-140-0023	Alleges delay in release of report from Child and Family Services Agency.	Assistance Rendered
87-140-0024	Suspects institution may not be sending out his letters.	Discontinued (Client)
87-140-0025	Alleges he was misled by correctional institution re replacement of tooth after extraction.	Not Supported
87-140-0026	Alleging insufficient social allowance.	Discontinued (Client)
87-140-0027	Inmate alleged that requests are ignored or destroyed.	Not Supported
87-140-0028	Concerns about inconsistencies existing between the various Child and Family Services Agencies.	Discontinued (Client)
87-140-0029	Complaint re medical treatment.	Not Supported
87-140-0030	Seeking information to help her locate her family.	Assistance Rendered
87-140-0031	Inmate with medical problem feels he should be allowed to attend bush camp.	Not Supported
87-140-0032	Inmate alleges he was improperly disciplined.	Resolved
87-140-0033	Inmate feels he should not have to deal with guard against whom he has bad feelings.	Resolved
87-140-0034	Inmate alleges unfair treatment.	Resolved
87-140-0035	Alleges unfair treatment in lock-up.	Discontinued (Client)
87-140-0036	Inmate concerned over being in same unit as a certain other inmate.	Assistance Rendered

87-140-0037	Inmate alleging unfair treatment.	Pending
87-140-0038	Inmate seeking clarification from institution re incident involving his wife.	Information Supplied
87-140-0039	Alleges inappropriate action by Family Conciliation Services.	Declined
87-140-0040	Complaint against the actions of a Child and Family Services Agency.	Discontinued (Client)
87-140-0041	Alleges inappropriate treatment by Correctional Officers at Provincial Remand Centre.	Not Supported
87-140-0042	Alleges child apprehended by agency without reasons being given.	Information Supplied
87-140-0043	Allegedly treated unfairly by correctional institute.	Discontinued (Client)
87-140-0044	Concerns about review process regarding removal of child from foster home.	Pending
87-140-0045	Inmate alleges inadequate medical treatment at Remand Centre.	Not Supported
87-140-0046	Alleged unfair treatment in Remand Centre.	Information Supplied
87-140-0047	Alleges unfair lock-up and denial of privileges at Remand Centre.	Not Supported
87-140-0048	Inmate denied permission to send money out of institution.	Resolved
87-140-0049	Inmate feels institution should do root canal work on front teeth.	Not Supported
87-140-0050	Inmate disagrees with denial of temporary absence pass.	Not Supported
87-140-0051	Inmate allegedly not advised of the reason for his transfer from Brandon Correctional Institution to Headingley Correctional Institution.	Not Supported
87-140-0052	Inmate seeking transfer from Provincial Remand Centre.	Resolved
87-140-0053	Parent alleges no smoking policy not followed by staff of youth centre.	Information Supplied
87-140-0054	Disagrees with agency's decision to apprehend children.	Information Supplied
87-140-0055	Inmate seeking financial assistance to attend alcohol treatment centre.	Information Supplied
87-140-0056	Inmate complaining about heat being shut off in annex.	Information Supplied
87-140-0057	Inmate alleges reason for transfer not provided.	Not Supported
87-140-0058	Patient alleged that she was improperly confined to psychiatric institution.	Not Supported
87-140-0059	Allegations by inmate of unfair treatment at correctional facility.	Discontinued (Client)
87-140-0060	Inmate feels he has been unfairly denied temporary absence pass.	Not Supported
87-140-0061	Inmate expressing concerns re medical treatment.	Assistance Rendered
87-140-0062	Complainant alleges unfair treatment by Child and Family Services Agency.	Information Supplied
87-140-0063	Inmate alleges that he was harassed and threatened by Correctional Officers.	Discontinued (Client)
87-140-0064	Reports difficulties in obtaining name change.	Information Supplied

87-140-0065	Concerns related to custody dispute.	Information Supplied
87-140-0066	Inmate claims he has not received a response to his request to see the Superintendent.	Discontinued (Ombudsman)
87-140-0067	Inmate feels application for temporary absence was unfairly rejected.	Information Supplied
87-140-0068	Inmate feels he has been unfairly denied razor.	Resolved
87-140-0069	Unable to get satisfactory reasons for denial of parole.	Assistance Rendered
87-140-0070	Alleges inappropriate medical treatment.	Not Supported
87-140-0071	Concerned that diabetic inmate is being unfairly treated.	Resolved
87-140-0072	Alleges harassment, unfair treatment and unfair loss of remission time.	Not Supported
87-140-0073	Inmate alleging that another inmate is being treated unfairly by correctional staff.	Discontinued (Ombudsman)
87-140-0074	Inmate experiencing problems re phone calls, mail and visitation list.	Resolved
87-140-0075	Inmate alleges he has been denied clothing change.	Resolved
87-140-0076	Inmate alleges inappropriate treatment by Correctional Officers.	Not Supported
87-140-0077	Inmate alleges mistreatment by correctional officers.	Discontinued (Ombudsman)
87-140-0078	Feels decision denying pre-release is unfair.	Resolved
87-140-0079	Inmate alleges medication being withheld; also correctional officer not wearing identification, refusing to identify himself and using inappropriate language.	Pending
87-140-0080	Alleges unfair treatment during investigation into abuse allegations.	Information Supplied
87-140-0081	Concerns over agency's handling of alleged abuse case.	Pending
87-140-0082	Complainant wishes to be released from youth centre.	Information Supplied
87-140-0083	Inmates' council requesting the Ombudsman's Office to investigate death of inmate.	Declined
87-140-0084	Inmate objects to security visits.	Pending
87-140-0085	Mother of a son in an open custody home feels the system is shutting her out.	Discontinued (Client)
87-140-0086	Grandparents concerned over apprehension of grandson from their care.	Pending
87-140-0087	Apprehension of a baby by Child and Family Services.	Information Supplied
87-140-0088	Alleges unfair treatment at Remand Centre.	Discontinued (Client)
87-140-0089	Inmate alleged that his personal property was indiscriminately removed.	Discontinued (Client)
87-140-0090	Complaint about actions of a Child and Family Services worker.	Information Supplied
87-140-0091	Complaint re unsanitary conditions at the Remand Centre and about the conduct of an officer.	Not Supported
87-140-0092	Alleges physical abuse while in Remand Centre.	Information Supplied
87-140-0093	Alleged misconduct by correctional officer.	Discontinued (Client)
87-140-0094	Alleges toothbrush, toothpaste and soap being denied.	Resolved

87-140-0095	Questions adequacy of safe custody at Remand Centre following death of brother.	Pending
87-140-0096	Application for day care subsidy rejected.	Resolved
87-140-0097	Inmate alleging unfair treatment of another inmate by guards.	Discontinued (Client)
87-140-0098	Inmate alleges difficulty obtaining funds from his account.	Information Supplied
87-140-0099	Monitoring Inquest into death of infant.	Pending
87-140-0100	Inmate alleges unfair treatment by nurse.	Not Supported
87-140-0101	Parents feel unfair accusations made regarding son's hygiene.	Pending
87-140-0102	Allegations of mistreatment by institutional staff.	Pending
87-140-0103	Inmate seeking a transfer from remand section of correctional institution.	Information Supplied
87-140-0104	Inmate allegedly refused permission to telephone lawyer.	Not Supported
87-140-0105	Alleges lack of information from Department regarding its review of complaint against Child and Family Services Agency.	Pending
87-140-0106	Youth feels cost of dental work should be covered by Child and Family Services Agency.	Not Supported
87-140-0107	Youth requesting assistance with family problems.	Pending
87-140-0108	Inmate alleging problem with bugs at institution.	Resolved
87-140-0109	Inmate seeking release from solitary confinement.	Not Supported
87-140-0110	Inmate alleging problems with mail and telephone calls.	Pending
87-140-0111	Request for special diet denied.	Resolved
87-140-0112	Alleges children not receiving adequate care in foster home.	Pending
87-140-0113	Inmate concerned over being charged for using too much milk.	Information Supplied
87-140-0114	Alleges unfair denial of phone privileges.	Not Supported
87-140-0115	Inmate feels he should not be held in isolation.	Pending
87-140-0116	Doctor allegedly disallowing medication which inmate claims is necessary.	Not Supported
87-140-0117	Foster parents allege unfair suspension of letter of approval to foster children.	Information Supplied
87-140-0118	Alleges harassment by correctional officers.	Discontinued (Client)
87-140-0119	Inmate feels he is being unfairly held in administrative segregation.	Not Supported
87-140-0120	Inmate alleges unfair lock-up.	Not Supported
87-140-0121	Objects to agency decision not to consider family as a suitable foster home resource.	Discontinued (Client)
87-140-0122	Concerns over apprehension of daughters by Child and Family Services agency.	Pending
87-140-0123	Requests assistance in getting property released from Youth Centre.	Pending

87-140-0124	Enquiry regarding financial assistance/allowance for children in care who are hospitalized.	Information Supplied
87-140-0125	Dispute over payment of rent for youth in independent living situation.	Pending
87-140-0126	Inmate alleges inadequate medical treatment.	Pending
87-140-0127	Feels he is being unlawfully confined by correctional institution.	Not Supported
87-140-0128	Inmate alleges unfair treatment at correctional facility.	Pending
87-140-0129	Inmate alleging denial of medical treatment and complaining about conditions at institution.	Assistance Rendered
87-140-0130	Inmate claims that money sent to him is not being deposited to his account.	Pending
87-140-0131	Inmate alleges unfair treatment.	Pending
87-140-0132	Difficulty obtaining birth certificate.	Assistance Rendered
87-140-0133	Inmate alleging unfair transfer from one cell block to another.	Discontinued (Client)
87-140-0134	Seeking assistance re obtaining medical care at remand centre.	Pending
87-140-0135	Inmate seeking assistance re problem with showers.	Resolved
87-140-0136	Inmate seeking transfer from one correctional facility to another.	Resolved
87-140-0137	Residential care home operator alleges unfair treatment by Department re closure of home.	Pending
87-140-0138	Overcrowding of Remand Centre and other concerns	Information Supplied
87-140-0139	Inmate alleges unfair lock-up.	Pending
87-140-0140	Inmate questioning length of sentence, remission and release date.	Information Supplied
87-140-0141	Request for information from adoption file.	Assistance Rendered
87-140-0142	Children in care expressing desire to return to live with birth parents.	Information Supplied
87-140-0143	Inmate alleges he is being unfairly denied association with another inmate.	Not Supported
87-140-0144	Inmate alleging that his visitors are being unlawfully and inappropriately searched.	Pending
87-140-0145	Inmate seeking release from correctional facility.	Information Supplied
87-140-0146	Unhappy with the actions and decision of Child Caring Agency.	Pending
87-140-0147	Monitor Inquest.	Pending
87-140-0148	Mother feels she should have increased access to children in care.	Information Supplied
87-140-0149	Alleges unfair treatment at correctional facility.	Pending
87-140-0150	Complainant questioning the lock-up of all inmates at Remand Centre.	Information Supplied
87-140-0151	Claims apprehension of child not appropriate.	Pending
87-140-0152	Monitor Inquest.	Pending

87-140-0153	Unable to obtain copy of parents' marriage certificate.	Pending
87-140-0154	Alleges denial of opportunity to apply for fine option program.	Discontinued (Client)
87-140-0155	Problem having foster child remain in open custody home.	Resolved
87-140-0156	Unhappy with counselling services of Child and Family Services worker.	Resolved
87-140-0157	Inmate seeking transfer from one institution to another.	Not Supported
87-140-0158	Inmate complaining about lost clothing.	Pending
87-140-0159	Remand inmate alleging unfair treatment re transfer of funds and access to religious services.	Not Supported
87-140-0160	Concern over possible release of information to politician by Child and Family Services Agency.	Pending
87-140-0161	Alleges unfair denial of temporary absence pass.	Not Supported
87-140-0162	Alleges unfair denial of temporary absence pass.	Not Supported
87-140-0163	Alleges unfair termination of employment.	Pending
87-140-0164	Expressing concern over well-being of two children.	Pending
87-140-0165	Inmate does not wish to be moved from isolation into population or protective custody.	Assistance Rendered
87-140-0166	Inmate seeking help to have transfer process completed.	Resolved
87-140-0167	Inmate's wife seeking clarification re husband's transfer request.	Information Supplied
87-140-0168	Inmate concerned about length of time allowed for temporary absence for viewing sister's remains and attending funeral.	Assistance Rendered
87-140-0169	Inmate seeking response to application for temporary absence pass.	Assistance Rendered
87-140-0170	Inmate complaining about lost clothing.	Resolved
87-140-0171	Inmate is unhappy about being transferred from the Provincial Remand Centre to another institution.	Resolved
87-140-0172	Inmate alleging unfair treatment.	Pending
87-140-0173	Inmate seeking transfer back to correctional institution from which he was just transferred.	Discontinued (Client)
87-140-0174	Alleges inmate did not receive appropriate medical attention.	Pending
87-140-0175	Recently transferred inmate seeking transfer back.	Pending
87-140-0176	Inmate alleges that two guards have been passing false information to other inmates thereby jeopardizing his safety at the Institution.	Pending
87-140-0177	Monitoring departmental investigation of death of group home resident.	Pending
87-140-0178	Alleges inmate reading material has not been changed for some time.	Resolved
87-140-0179	Resident of youth centre alleging lack of heat in rooms.	Pending
87-140-0180	Inmate alleges unfair denial of visiting privileges	Not Supported
87-140-0181	Alleges inappropriate treatment in remand centre.	Pending

Consumer & Corporate Affairs — 8

87-150-0001	Security Commission licensees objecting to the reported requirement that registrations be accompanied by certified cheque.	Not Supported
87-150-0002	Unhappy with actions taken by Consumers' Bureau re car problem.	Pending
87-150-0003	Superintendent of Insurance unable to resolve insurance problem.	Pending
87-150-0004	Feels Consumer Services Officer did not adequately handle complaint.	Assistance Rendered
87-150-0005	Feels real estate form is misleading.	Information Supplied
87-150-0006	Disagrees with Hearing Aid Board's decision denying him a licence to sell hearing aids.	Resolved
87-150-0007	Alleges error by Department in the registration of business name.	Information Supplied
87-150-0008	Seeking clarification re Public Utilities Board order re new water/sewer rates.	Assistance Rendered

Corporations & Extra-Departmental — 15

87-170-0001	Alleges unfair treatment of application for assistance under Special Arda Agreement.	Not Supported
87-170-0002	Feels application to be casino dealer unfairly dealt with.	Not Supported
87-170-0003	Alleges telephone service was cut off without warning.	Resolved
87-170-0004	Employee requested to do work she considers medically unsafe.	Discontinued (Client)
87-170-0005	Alleges unfair denial of phone service.	Resolved
87-170-0006	Individual alleged that MTS is reneging on an agreement regarding repayment of arrears.	Not Supported
87-170-0007	Alleges phone company is refusing him special telephone equipment.	Discontinued (Ombudsman)
87-170-0008	Alleges MTS advised her to write NSF cheque to avoid having phone disconnected.	Pending
87-170-0009	Delay in receiving phone service.	Information Supplied
87-170-0010	Dispute over refund following cancellation of service.	Not Supported
87-170-0011	Feels MTS wants to cut down too many trees on their property in order to bury telephone cable.	Resolved
87-170-0012	Alleges MTS failed to restore property to original condition following repair work.	Resolved
87-170-0013	Alleges unfair treatment by Manitoba Telephone System.	Not Supported
87-170-0014	Objects to Manitoba Telephone System's policy of requesting a deposit against future bills.	Not Supported
87-170-0015	Seeking information re work record at Manitoba Telephone System	Resolved

Culture, Heritage and Recreation —1

87-190-0001	Alleges sexual harassment and management problems.	Pending

Education — 10

87-200-0001	Feels amount of Student Aid bursary should be greater.	Not Supported
87-200-0002	Allegedly subjected to an unreasonable request to gain entry to refresher course at community college.	Discontinued (Client)
87-200-0003	Parent Support Group seeking more involvement with their children's education.	Information Supplied
87-200-0004	Alleges excessive delay in hearing of appeal.	Not Supported
87-200-0005	Concerned over acquisition of property for school use.	Information Supplied
87-200-0006	Problem involving the loss of education library film and cancellation of borrowing privileges.	Resolved
87-200-0007	Complainant alleges improper denial of credits for a course.	Discontinued (Client)
87-200-0008	Difficulties re application for Teacher's Certificate.	Resolved
87-200-0009	Dispute with Teachers' Retirement Allowances Fund	Discontinued (Client)
87-200-0010	Reports difficulties in applying for Student Aid.	Declined

Employment Services and Economic Security — 44

87-210-0001	Concerns re social allowance.	Pending
87-210-0002	Social allowance recipient alleges difficulty obtaining drug prescription card and additional social allowance.	Resolved
87-210-0003	Alleges unfair withholding of social allowance cheque.	Resolved
87-210-0004	Alleges undue delay in processing student social allowance claim.	Resolved
87-210-0005	Social allowance recipient unable to obtain receipt for rent paid on her behalf.	Information Supplied
87-210-0006	Complaint against social allowance worker.	Discontinued (Client)
87-210-0007	Allegedly being harassed, wrongfully accused of fraud and physically abused by financial worker.	Not Supported
87-210-0008	Alleges social allowance unfairly withheld.	Not Supported
87-210-0009	Disputes termination of income supplement cheque on basis of overpayment.	Not Supported
87-210-0010	Seeking an increase in social allowance.	Information Supplied
87-210-0011	Dispute over receipt of cheque.	Information Supplied
87-210-0012	Unable to obtain assistance to pay outstanding hydro bill.	Resolved
87-210-0013	Delay by Income Security Officer in sending out rent payment.	Resolved
87-210-0014	Alleges he did not receive social allowance cheque.	Not Supported
87-210-0015	Alleges unfair treatment by Income Security Officer.	Not Supported
87-210-0016	Alleges she is being denied adequate homemaker's assistance.	Pending
87-210-0017	Feels Department is making unreasonable demands of social allowance recipient.	Pending
87-210-0018	Delay in receiving cheque.	Resolved
87-210-0019	Feels it is unfair that deduction is being made from social allowance benefit.	Assistance Rendered

87-210-0020	Difficulties concerning social allowance.	Discontinued (Client)
87-210-0021	Delay in providing social allowance cheque.	Resolved
87-210-0022	Employee concerns.	Information Suplied
87-210-0023	Complainant denied emergency funds for two weeks housing.	Information Supplied
87-210-0024	Alleges unfair treatment by financial counsellor.	Not Supported
87-210-0025	Disagrees with decision to disallow financial supplement for education field trip.	Assistance Rendered
87-210-0026	Tenant unable to pay rent arrears resulting in eviction notice.	Resolved
87-210-0027	Alleges rental money not being sent on time.	Not Supported
87-210-0028	Department allegedly refusing to provide social allowance to cover rent.	Discontinued (Ombudsman)
87-210-0029	Complainant alleges wrongful denial of provincial welfare for her common-law spouse.	Discontinued (Client)
87-210-0030	Problem with social allowance and also personal family problems.	Assistance Rendered
87-210-0031	Feels she was treated unfairly by Economic Security Officer.	Information Supplied
87-210-0032	Feels Economic Security should pay for moving furniture out of province.	Not Supported
87-210-0033	Refused special needs allowance.	Declined
87-210-0034	Alleges problems obtaining social allowance cheque to pay for rent.	Not Supported
87-210-0035	Concerns over eligibility of social assistance.	Assistance Rendered
87-210-0036	Alleges unfair denial of student social allowance.	Information Supplied
87-210-0037	Alleges discriminatory treatment re: application for economic security benefits.	Pending
87-210-0038	Alleges possible bias re social allowance appeal hearing.	Pending
87-210-0039	Expressing concern over not receiving new health card.	Resolved
87-210-0040	Alleging difficulties resulting from late student social allowance cheque.	Discontinued (Client)
87-210-0041	Alleges inadequate amount of social allowance.	Pending
87-210-0042	Feels social allowance policy is unfair.	Declined
87-210-0043	Alleges unfair denial of financial assistance to cover dental work.	Discontinued (Client)
87-210-0044	Problems related to social allowance benefits.	Resolved

Energy & Mines — 1

87-220-0001	Feels Branch is unfair in disallowing resource survey.	Pending

Environment and Workplace Safety and Health — 7

87-230-0001	Follow-up re recommendation of Inquest Judge.	Pending
87-230-0002	Dissatisfied with performance of Worker Advisor.	Discontinued (Client)
87-230-0003	Follow-up re Inquest recommendations.	Resolved

87-230-0004	Alleges Department has acted improperly in approving sewage lagoons.	Pending
87-230-0005	Alleges regulations have not been followed re landfill site.	Discontinued (Client)
87-230-0006	Follow-up on Inquest recommendations.	Pending
87-230-0007	Feels Department should be taking action on septic field problems.	Pending

Federal Departments and Agencies — 6

87-240-0001	Feels he should be entitled to disability benefits.	Information Supplied
87-240-0002	Alleges unfair treatment by RCMP.	Information Supplied
87-240-0003	Concerned about security at airport.	Information Supplied
87-240-0004	Canada Pension Plan problem.	Assistance Rendered
87-240-0005	Alleges unfair treatment by RCMP Officer.	Assistance Rendered
87-240-0006	Alleges improper conduct by civil servant.	Discontinued (Ombudsman)

Finance — 3

87-250-0001	Out of province resident objects to having to pay Manitoba's retail sales tax.	Pending
87-250-0002	Seeking refund of retail sales tax.	Pending
87-250-0003	Feels inappropriate action by Department resulted in need to obtain lawyer.	Pending

Government Services — 2

87-260-0001	Alleges department has placed unfair reprimand on personnel file.	Discontinued (Client)
87-260-0002	Dispute over claim for compensation.	Pending

Health — 108

87-270-0001	Psychiatric patient feels he is being kept in hospital illegally.	Pending
87-270-0002	Psychiatric patient complaining about hospital staff member.	Discontinued (Client)
87-270-0003	Psychiatric patient claims he is being held in institution against his will.	Information Supplied
87-270-0004	Patient seeking Ombudsman's help to be released from mental health centre.	Information Supplied
87-270-0005	Patient in psychiatric ward seeking help on personal matter.	Information Supplied
87-270-0006	Wants release from psychiatric ward.	Information Supplied
87-270-0007	Patient wants release from psychiatric ward.	Discontinued (Client)
87-270-0008	Alleges unfair treatment by Home Orderly Service.	Not Supported
87-270-0009	Alleges that there are no non-smoking areas for patients in mental health centre.	Not Supported
87-270-0010	Patient requesting release from psychiatric facility.	Information Supplied
87-270-0011	Alleges being held against her will in psychiatric facility.	Information Supplied

87-270-0012	Psychiatric patient feels he has been wrongly admitted to ward.	Not Supported
87-270-0013	Wants to be released from psychiatric ward and transferred to Remand Centre.	Information Supplied
87-270-0014	Psychiatric patient wants to be released from hospital.	Information Supplied
87-270-0015	Objects to being made compulsory patient at mental health centre.	Information Supplied
87-270-0016	Requesting information re patients' rights.	Information Supplied
87-270-0017	Psychiatric patient wants to be released.	Information Supplied
87-270-0018	Psychiatric patients alleges lack of medical attention.	Discontinued (Client)
87-270-0019	Alleges Department of Health has failed to address her medical needs.	Not Supported
87-270-0020	Patient wishes release from psychiatric ward.	Information Supplied
87-270-0021	Patient feels he has been improperly committed to mental health centre.	Not Supported
87-270-0022	Patient feels he is being improperly held at mental health centre.	Not Supported
87-270-0023	Concerned about being certified as a compulsory patient in psychiatric facility.	Information Supplied
87-270-0024	Patient in mental health centre feels he should be placed on medication.	Information Supplied
87-270-0025	Dispute over refusal to pay out of province claim.	Not Supported
87-270-0026	Alleges improper confinement in psychiatric facility.	Not Supported
87-270-0027	Patient wants to be released from psychiatric facility.	Information Supplied
87-270-0028	Patient feels he should not be in psychiatric facility.	Information Supplied
87-270-0029	Patient wants to be released from psychiatric facility.	Information Supplied
87-270-0030	Alleges failure by Department to honour arrangements made for the care of individual under mental health program.	Assistance Rendered
87-270-0031	Various concerns re patients' rights and procedures on psychiatric wards.	Information Supplied
87-270-0032	Feels he should not be in psychiatric facility.	Discontinued (Client)
87-270-0033	Patient wants to be discharged from psychiatric facility.	Information Supplied
87-270-0034	Alleges improper confinement to mental health centre.	Not Supported
87-270-0035	Alleges improper confinement in mental health facility.	Not Supported
87-270-0036	Feels that the Manitoba Health Services Commission should include her two children currently living in Ontario under her Manitoba registration.	Resolved
87-270-0037	Concerns about confinement to mental health facility.	Information Supplied
87-270-0038	Patient wishes to transfer from one psychiatric facility to another.	Information Supplied
87-270-0039	Psychiatric patient requests release from hospital.	Pending
87-270-0040	Psychiatric patient requesting visit to discuss concerns.	Information Supplied
87-270-0041	Psychiatric patient allegedly denied opportunity to telephone Police.	Not Supported

87-270-0042	Patient wanted release from psychiatric ward.	Discontinued (Client)
87-270-0043	Patient feels she should not be confined to psychiatric facility.	Information Supplied
87-270-0044	Patient seeking discharge from psychiatric facility.	Information Supplied
87-270-0045	Patient allegedly "beaten up" by staff member of psychiatric facility.	Discontinued (Ombudsman)
87-270-0046	Patient requesting contact with family so he can be released from hospital.	Information Supplied
87-270-0047	Feels mental health care system is not adequately addressing her needs.	Not Supported
87-270-0048	Requesting release of patient from mental health centre.	Information Supplied
87-270-0049	Feels sister was unfairly committed to mental health centre.	Discontinued (Client)
87-270-0050	Employer not responding to Workers Compensation Board's request for information re an accident of an employee.	Resolved
87-270-0051	Alleges improper confinement and maltreatment of patient at mental health centre.	Not Supported
87-270-0052	Feels ambulance fees should be paid by Manitoba Health Services Commission.	Not Supported
87-270-0053	Concerned about being picked up by police on a doctor's statement for psychiatric examination.	Information Supplied
87-270-0054	Patient wishes to be released from psychiatric ward of hospital.	Information Supplied
87-270-0055	Alleges that Continuing Care and the Manitoba Health Services Commission is undermining the chiropody profession.	Not Supported
87-270-0056	Personal concerns related by psychiatric patient.	Information Supplied
87-270-0057	Psychiatric patient appealing compulsory status.	Discontinued (Ombudsman)
87-270-0058	Alleges physical abuse and unfair treatment by staff of mental health centre.	Not Supported
87-270-0059	Psychiatric patient wishes to leave hospital.	Information Supplied
87-270-0060	Psychiatric patient wants to be released.	Information Supplied
87-270-0061	Patient of psychiatric institution wants out.	Information Supplied.
87-270-0062	Patient alleges mistreatment while in psychiatric facility.	Not Supported
87-270-0063	Patient feels that she is being confined illegally.	Not Supported
87-270-0064	Psychiatric patient requesting discharge from mental health facility.	Information Supplied
87-270-0065	Patient does not feel he should be a compulsory patient.	Information Supplied
87-270-0066	Wants to be released from mental health centre.	Information Supplied
87-270-0067	Patient in psychiatric ward of hospital expressing intent to seek Ombudsman's help.	Discontinued (Client)
87-270-0068	Patient wishes to leave mental health centre.	Information Supplied
87-270-0069	Dissatisfied with Home Orderly service.	Pending
87-270-0070	Patient feels he should not be in psychiatric facility.	Information Supplied

87-270-0071	Feels Department should reimburse him for work done on rocking bed.	Pending
87-270-0072	Various concerns re treatment at a mental health facility.	Pending
87-270-0073	Patient requesting release from the psychiatric ward.	Information Supplied
87-270-0074	Patient complaining of treatment in psychiatric ward.	Information Supplied
87-270-0075	Outpatient feels he is being used as a guinea pig by mental health centre.	Not Supported
87-270-0076	Patient seeking release from psychiatric facility.	Information Supplied
87-270-0077	Psychiatric patient wishes to be released from hospital and returned to correctional facility.	Pending
87-270-0078	Psychiatric patient objects to probationary status.	Information Supplied
87-270-0079	Psychiatric patient expressing concerns re an altercation with staff member.	Information Supplied
87-270-0080	Patient seeking release from psychiatric facility.	Information Supplied
87-270-0081	Complainant alleges wrongful detainment at psychiatric facility.	Information Supplied
87-270-0082	Alleges undue delay by Board of Review in communicating to him decision re: status appeal.	Pending
87-270-0083	Patient seeking release from psychiatric facility.	Information Supplied
87-270-0084	Patient wishes to be released from psychiatric facility.	Information Supplied
87-270-0085	Psychiatric patient expressing concerns about being seen by psychiatrist, patient status, treatment and release.	Information Supplied
87-270-0086	Complaining about unfair treatment at psychiatric facility.	Not Supported
87-270-0087	Alleges unfair treatment by School of Psychiatric Nursing.	Discontinued (Client)
87-270-0088	Complaining about the treatment administered by doctor.	Information Supplied
87-270-0089	Psychiatric patient seeking release from hospital.	Information Supplied
87-270-0090	Patient seeking release from psychiatric facility.	Information Supplied
87-270-0091	Patient seeking release from psychiatric institution.	Discontinued (Client)
87-270-0092	Patient questions the Institution's decision to cancel his two week leave pass.	Information Supplied
87-270-0093	Patient requesting assistance in obtaining discharge from hospital.	Information Supplied
87-270-0094	Monitor Inquest.	Pending
87-270-0095	Monitor Inquest.	Pending
87-270-0096	Feels more home care services should be provided.	Pending
87-270-0097	Feels Department should pay for transfer and care of disabled husband.	Discontinued (Client)
87-270-0098	Friend of psychiatric patient feels patient should not be in psychiatric facility.	Pending
87-270-0099	Psychiatric patient allegedly unable to see social worker.	Information Supplied
87-270-0100	Psychiatric patient seeking release from hospital.	Pending
87-270-0101	Alleges improper confinement to mental health centre.	Not Supported
87-270-0102	Alleges delay in receiving pharmacare refund.	Pending

87-270-0103	Objecting to admission to psychiatric facility.	Pending
87-270-0104	Patient objecting to confinement at mental health centre.	Information Supplied
87-270-0105	Patient alleged that Mental Health Centre lost his money.	Not Supported
87-270-0106	Patient in psychiatric ward of hospital seeking release.	Pending
87-270-0107	Monitor Inquest.	Pending
87-270-0108	Alleges harassment and unfair treatment by Office of Continuing Care.	Pending

Highways and Transportation — 22

87-280-0001	Alleges request to obtain Manitoba driver's licence unfair and unlawful.	Resolved
87-280-0002	Alleged that he was unfairly dismissed.	Declined
87-280-0003	Unable to obtain driver's licence.	Resolved
87-280-0004	Feels Department should divulge name of person who provided information re her medical condition.	Pending
87-280-0005	Concerns regarding medical reports requested by Motor Vehicle Branch.	Pending
87-280-0006	Alleges delay in receiving Class 5.0 licence.	Discontinued (Client)
87-280-0007	Denied wish to use all terrain vehicle on highways.	Information Supplied
87-280-0008	Alleges unfair denial of driver's licence.	Discontinued (Client)
87-280-0009	Unable to obtain certain statistical information from Department.	Not Supported
87-280-0010	Alleges Department reducing her property acreage resulting in loss of water supply.	Resolved
87-280-0011	Seeking clarification re highway sign.	Assistance Rendered
87-280-0012	Dissatisfied with decision of Licence Suspension Appeal Board.	Information Supplied
87-280-0013	Complainant alleged that his Class 5.0 driver's licence was unjustly revoked.	Discontinued (Client)
87-280-0014	Concerned with proposed expropriation.	Information Supplied
87-280-0015	Unable to receive medical information from Department file.	Assistance Rendered
87-280-0016	Objects to receiving only two personalized licence plates.	Not Supported
87-280-0017	Department refusing to recommend approval of subdivision.	Pending
87-280-0018	Alleges poor maintenance of government road.	Pending
87-280-0019	Dispute over driving record; also concern over change in law seventeen years ago.	Not Supported
87-280-0020	Feels restrictions on driver's licence are unfair.	Pending
87-280-0021	Objects to decision of Licence Suspension Appeal Board.	Pending
87-280-0022	Alleges inappropriate handling, by Licence Suspension Appeal Board, of application for hearing.	Discontinued (Client)

Housing — 42

87-290-0001	Unable to determine status of application for shelter allowance.	Resolved
87-290-0002	Advising of appeal of rent increase and expressing concern about the actions of the Rent Regulation Bureau.	Information Supplied
87-290-0003	Difficulty obtaining low rental housing unit.	Information Supplied
87-290-0004	Questions regarding return of his security deposit.	Information Supplied
87-290-0005	Alleges difficulty contacting Landlord and Tenant Affairs Officer.	Assistance Rendered
87-290-0006	Undue delay in processing application under RRAP.	Discontinued (Client)
87-290-0007	Alleges improper actions by Rentalsman's Officer.	Not Supported
87-290-0008	Disagrees with Rentalsman's arbitration decision re security deposit.	Pending
87-290-0009	Disputes Rentalsman's decision re landlord/tenant problem; concerned also about attitude and manner of staff member.	Resolved
87-290-0010	Allegedly received verbal abuse and rude treatment from Rentalsman's Office.	Assistance Rendered
87-290-0011	Contesting decision of Rentalsman re problem with landlord concerning repairs to fridge.	Information Supplied
87-290-0012	Alleges inadequate service provided by Landlord and Tenant Affairs Office.	Resolved
87-290-0013	Alleging unfair denial of opportunity to rent public housing unit.	Not Supported
87-290-0014	Complainant alleged that the Rentalsman is not complying with legislation.	Resolved
87-290-0015	Dispute over payment of rent arrears.	Information Supplied
87-290-0016	Concerned over government policy of building low rental housing units.	Declined
87-290-0017	Complainant disagrees with the Department's view that it lacks jurisdiction to act on a matter brought to its attention.	Discontinued (Client)
87-290-0018	Landlord alleges unfair treatment by the Deputy Rentalsman.	Pending
87-290-0019	Tenant alleged that she was treated unfairly by Regional Housing Authority.	Not Supported
87-290-0020	Alleges Rentalsman's Office is not responding to emergency situation.	Discontinued (Ombudsman)
87-290-0021	Employee expressed concern with the Department's refusal to alter her employment record.	Discontinued (Client)
87-290-0022	Missed appeal opportunity because of allegedly not receiving notice of rent recommendation.	Resolved
87-290-0023	Alleges unfair disposition of security deposit.	Pending
87-290-0024	Concerns with the policy of the Housing Authority re overnight visitors.	Information Supplied

87-290-0025	Unhappy with Rentalsman's handling of landlord/ tenant problem.	Pending
87-290-0026	Unable to obtain written information from Department re driveway allegedly constructed by Department.	Information Supplied
87-290-0027	Concerned over Rentalsman's handling of landlord/ tenant problem.	Not Supported
87-290-0028	Alleges unfair eviction notice by Winnipeg Housing Authority.	Declined
87-290-0029	Dissatisfied with action taken by the Rentalsman re landlord/tenant dispute.	Not Supported
87-290-0030	Questions Rentalsman's inability to assist in landlord/ tenant dispute.	Pending
87-290-0031	Landlord objects to being restricted from raising rents.	Pending
87-290-0032	Unable to acquire one bedroom apartment through Housing Authority.	Pending
87-290-0033	Alleges Rentalsman's Office unable to help with landlord/tenant problem.	Pending
87-290-0034	Alleges undue delay in handling security deposit matter.	Not Supported
87-290-0035	Alleges government caused damage to house; also expressing concern over amount offered by government to purchase his house.	Pending
87-290-0036	Requesting assistance to check status of complaint with Rentalsman's Office.	Assistance Rendered
87-290-0037	Alleges inappropriate behaviour by official	Discontinued (Client)
87-290-0038	Dispute over terms of repayment of loan under Critical Home Repair Program.	Resolved
87-290-0039	Alleges mother being unfairly pressured to move out of housing unit.	Pending
87-290-0040	Alleges unfair calculation of rent by housing authority.	Discontinued (Client)
87-290-0041	Feels Rentalsman's Office is taking too long to settle security deposit matter.	Discontinued (Client)
87-290-0042	Feels he is being unfairly treated re request for assistance with housing problem	Pending

Manitoba Hydro — 12

87-300-0001	Location of Hydro poles.	Pending
87-300-0002	Alleges Manitoba Hydro not responding to his correspondence.	Resolved
87-300-0003	Unable to resolve a billing dispute.	Assistance Rendered
87-300-0004	Feels he was unfairly denied employment at Limestone Project.	Resolved
87-300-0005	Homeowner alleged that Manitoba Hydro is making unreasonable demands.	Not Supported
87-300-0006	Feels Manitoba Hydro should be responsible for appliances allegedly damaged by power failure.	Not Supported
87-300-0007	Objects to disconnection due to arrears.	Not Supported
87-300-0008	Farmer wants Hydro poles relocated.	Not Supported

87-300-0009	Disputes decision to disconnect service due to outstanding arrears.	Not Supported
87-300-0010	Billing problem.	Not Supported
87-300-0011	Problems arising allegedly from Manitoba Hydro's recommendations of an electric furnace.	Pending
87-300-0012	Billing dispute.	Information Supplied

Industry, Trade & Technology — 1

87-310-0001	Alleges discrimination because Department's letter to him addressed Ms rather than Mr.	Not Supported

Labour — 14

87-320-0001	Alleges that he is being unfairly denied a blaster's licence.	Discontinued (Client)
87-320-0002	Alleged failure of the Officer of the Employment Standards Bureau to provide proper representation on a claim for severance pay.	Discontinued (Client)
87-320-0003	Unhappy with length of time and outcome of investigation by Employment Standards Branch.	Pending
87-320-0004	Alleges unfair treatment re hairdressing exam.	Not Supported
87-320-0005	Alleged that he was unfairly denied assistance re employer-employee problem.	Not Supported
87-320-0006	Alleges Department is refusing to give him his examination marks.	Resolved
87-320-0007	Dissatisfied with assistance provided by Employment Standards Officer.	Discontinued (Client)
87-320-0008	Alleged delay by Employment Standards in handling complaint.	Not Supported
87-320-0009	Employee wants assistance in obtaining transfer to another Department.	Discontinued (Ombudsman)
87-320-0010	Alleges unfair treatment by Labour Board in Payment of Wages Act complaint.	Pending
87-320-0011	Allegedly denied assistance by Employment Standards Branch.	Assistance Rendered
87-320-0012	Alleges Manitoba Labour Board did not treat complaint fairly.	Discontinued (Client)
87-320-0013	Complainant alleges that office staff treated her rudely on the telephone.	Not Supported
87-320-0014	Allegedly misinformed by Department officials.	Assistance Rendered

Municipal Affairs — 3

87-330-0001	Alleges inappropriate action by local dog catcher.	Pending
87-330-0002	Objects to rejection of subdivision proposal.	Pending
87-330-0003	Alleges discourteous and arrogant attitude by provincial official.	Discontinued (Client)

Municipalities, Cities, Towns, etc. — 13

87-340-0001	Alleges municipality will not enforce surface water by-law.	Information Supplied

87-340-0002	Alleges municipality has pushed rubbish on to his property without permission.	Information Supplied
87-340-0003	Feels she is getting the run around re home occupations business licence.	Information Supplied
87-340-0004	Alleges that the city has purposely neglected re-assessing his home.	Information Supplied
87-340-0005	Questions regarding lien placed on her property.	Information Supplied
87-340-0006	Alleges failure of Police to return belongings to him.	Pending
87-340-0007	Alleges unfair treatment by city welfare office.	Information Supplied
87-340-0008	Request for copy of form used by municipality in selecting applicants rejected.	Declined
87-340-0009	Social allowance recipient alleges abusive treatment from municipal staff.	Declined
87-340-0010	Alleges flooding caused by installation of culvert by municipality.	Information Supplied
87-340-0011	Alleges inappropriate treatment by police officer.	Information Supplied
87-340-0012	Feels unfairly charged by city under building code.	Information Supplied
87-340-0013	Alleges municipal secretary-treasurer not following instructions given by The Municipal Board of Manitoba.	Discontinued (Client)

Manitoba Public Insurance Corporation — 68

87-350-0001	Questions concerning Autopac claim.	Information Supplied
87-350-0002	Feels he should be eligible for a cost of living increase to Autopac claim benefits.	Not Supported
87-350-0003	Feels Corporation's actions re liability dispute were unjustified.	Resolved
87-350-0004	Dispute over settlement offered for Autopac claim.	Resolved
87-350-0005	Alleges improper increase of deductible and basic premium.	Discontinued (Client)
87-350-0006	Alleged that MPIC demand for additional payment is harsh and unreasonable.	Resolved
87-350-0007	Feels Autopac unfairly withholding $200.00 deductible.	Not Supported
87-350-0008	Disputes liability assessment.	Pending
87-350-0009	Unhappy with proposed Autopac settlement.	Not Supported
87-350-0010	Alleges impartial handling of claim due to a conflict of interest.	Pending
87-350-0011	Disputes liability assessment.	Information Supplied
87-350-0012	Alleges that MPIC has forwarded a demand for payment in error.	Information Supplied
87-350-0013	Unable to renew insurance on vehicle.	Resolved
87-350-0014	Seeking assistance re Autopac claim dispute.	Resolved
87-350-0015	Alleged that his claim was very poorly handled by the Adjuster.	Pending
87-350-0016	Autopac claim dispute.	Not Supported
87-350-0017	Seeking assistance in settling insurance claim.	Pending

87-350-0018	Alleges that Corporation failed to notify of extensive claim exceeding coverage.	Pending
87-350-0019	Autopac claim dispute.	Resolved
87-350-0020	Alleges unnecessary delay in the resolution of claim.	Discontinued (Client)
87-350-0021	Claim dispute.	Not Supported
87-350-0022	Delay in receiving Autopac benefits.	Information Supplied
87-350-0023	Feels Autopac did not properly investigate accident.	Not Supported
87-350-0024	Objects to refusal to give extended Autopac coverage.	Discontinued (Client)
87-350-0025	Claim dispute.	Not Supported
87-350-0026	Claim dispute re estimate of damages.	Not Supported
87-350-0027	Individual is unhappy with the attitude of various personnel at Autopac.	Discontinued (Client)
87-350-0028	Confusion over denial of Autopac claim.	Assistance Rendered
87-350-0029	Alleges improper assessment of car value re Autopac claim; also, problem involving bodily injury claim.	Discontinued (Client)
87-350-0030	Complaint regarding recovery of $50.00 deductible.	Information Supplied
87-350-0031	Individual alleges that MPIC is being prejudicial towards her and is deliberately delaying settlement of an injury claim.	Discontinued (Client)
87-350-0032	Disagrees with Autopac's assessment of accident liability.	Pending
87-350-0033	Alleges he is being unfairly forced to pay Corporation's legal expenses.	Discontinued (Ombudsman)
87-350-0034	Unhappy with MPIC's decision regarding payment of death benefits.	Pending
87-350-0035	Autopac claim dispute.	Resolved
87-350-0036	Seeking Ombudsman's help to find out status of Autopac claim.	Resolved
87-350-0037	Alleges mishandling of Autopac claim.	Pending
87-350-0038	Autopac liability dispute.	Pending
87-350-0039	Feels Autopac settlement offer is unfair.	Discontinued (Client)
87-350-0040	Feels MPIC is responsible for articles stolen from vehicle while in Corporation's compound.	Information Supplied
87-350-0041	Alleges unfair denial of coverage on motorcycle.	Discontinued (Client)
87-350-0042	Feels an ex gratia settlement should be increased.	Not Supported
87-350-0043	Claim dispute.	Resolved
87-340-0044	Feels denial of disability benefits unfair.	Not Supported
87-350-0045	Complainant alleged that he was unfairly denied an Autopac agency appointment.	Pending
87-350-0046	Claim dispute.	Pending
87-350-0047	Claim dispute.	Discontinued (Client)
87-350-0048	Delay in settling claim.	Not Supported
87-350-0049	Complainant alleges that his Autopac claim was unfairly denied.	Not Supported
87-350-0050	Dispute over Autopac claims.	Pending

87-350-0051	Complainant alleges that Autopac is refusing to honour his claim.	Pending
87-350-0052	Alleges unfair and inappropriate handling of Autopac claim.	Information Supplied
87-350-0053	Feels money should not have been taken from driver's licence fee credit to pay MPIC supplementary charge.	Information Supplied
87-350-0054	Objects to having to pay deductibles.	Not Supported
87-350-0055	Alleges unfair decision re Autopac claim.	Not Supported
87-350-0056	Complainant alleges that Autopac is delaying the settlement of his claim.	Discontinued (Ombudsman)
87-350-0057	Alleges unfair handling of Autopac claim.	Pending
87-350-0058	Autopac claim dispute.	Resolved
87-350-0059	Renewal of insurance policies denied.	Resolved
87-350-0060	Disputes appeal decision re accident surcharge.	Information Supplied
87-350-0061	Dispute re liability assessment.	Not Supported
87-350-0062	Feels unfairly treated re Autopac claim.	Pending
87-350-0063	Concerns over proposed Autopac settlement.	Pending
87-350-0064	Dispute over Autopac settlement.	Pending
87-350-0065	Disagrees with decision re Autopac claim settlement.	Pending
87-350-0066	Autopac claim dispute.	Information Supplied
87-350-0067	Autopac claim dispute.	Information Supplied
87-350-0068	Dissatisfied with arbitration process and settlement.	Pending

Natural Resources — 18

87-360-0001	Feels unfairly treated re application for trap line.	Pending
87-360-0002	Objecting to increase in cottage lot fees.	Discontinued (Client)
87-360-0003	Objects to assessment of service fee for cottage owners and park entrance fee for relatives visiting cottage owners.	Assistance Rendered
87-360-0004	Alleges unfair and inappropriate action by Department re unauthorized water works.	Pending
87-360-0005	Difficulties involving application to lease lot in provincial park.	Resolved
87-360-0006	Individual is unhappy with the actions of the Department re Dutch Elm Disease Program.	Pending
87-360-0007	Objecting to amount of fee re vacation home permit.	Declined
87-360-0008	Concerned over departmental structure and career path opportunities.	Declined
87-360-0009	Commercial live bait fisherman objecting to government freeze on his licence.	Pending
87-360-0010	Feels that the Department is disregarding requests for assistance in redevelopment of the Wallace Lake area.	Pending
87-360-0011	Alleges harassment by campground patrol officer.	Pending
87-360-0012	Commercial live bait fisherman objecting to government freeze on licence.	Pending
87-360-0013	Dispute over sand and gravel rights.	Pending

87-360-0014	Alleges harassment and inappropriate work conditions.	Pending
87-360-0015	Alleges unfair treatment re trapping privileges.	Information Supplied
87-360-0016	Alleges improper handling of application for trap line.	Pending
87-360-0017	Alleges damage caused to land by removal of trees under Dutch Elm Disease Program.	Pending
87-360-0018	Alleges inaction by Department re: Alleged improper dredging of lake.	Pending

Northern Affairs — 1

87-370-0001	Drainage problem.	Pending

Private Matters — 72

87-380-0001	Questions concerning group life insurance premiums.	Assistance Rendered
87-380-0002	Questions concerning employment conditions.	Information Supplied
87-380-0003	Family allegedly in desperate need of financial assistance.	Information Supplied
87-380-0004	Seeking jurisdiction expansion of the Ombudsman.	Information Supplied
87-380-0005	Complaint against Real Estate Board.	Information Supplied
87-380-0006	Requesting that certain documents be exempted from government shredding policy.	Declined
87-380-0007	Seeking help re housing financial problems.	Assistance Rendered
87-380-0008	Alleges unfair treatment by retailer.	Information Supplied
87-380-0009	Seeking support in opposing the reinstatement of the death penalty.	Declined
87-380-0010	Seeking help in obtaining lawyer.	Information Supplied
87-380-0011	Difficulties involving his lawyer.	Information Supplied
87-380-0012	Feels gas company is discriminating against native people in its deposit requirement.	Assistance Rendered
87-380-0013	Unhappy with court decision.	Declined
87-380-0014	Drainage problem and problem with lawyers.	Declined
87-380-0015	Having difficulty meeting terms of restitution order.	Information Supplied
87-380-0016	Concerned over Judge's decision not to imprison individual for impaired driving.	Information Supplied
87-380-0017	Dispute over maintenance settlement.	Declined
87-380-0018	Seeking assistance in locating a person.	Assistance Rendered
87-380-0019	Seeking help to avoid deportation.	Information Supplied
87-380-0020	Alleges lottery corporation not answering correspondence.	Assistance Rendered
87-380-0021	Legal problem involving assets from marriage breakdown.	Assistance Rendered
87-380-0022	Experiencing difficulty in getting plastic surgeon to remove tattoos.	Information Supplied
87-380-0023	Dispute with company over herbicide allegedly too old to be effective.	Declined
87-380-0024	Difficulties in obtaining payment for contracting work.	Information Supplied
87-380-0025	Seeking to have mentally handicapped daughter remain in school program beyond the age of twenty-one.	Declined

87-380-0026	Seeking reconsideration of insurance claim.	Assistance Rendered
87-380-0027	Difficulties son is experiencing with another student in school.	Information Supplied
87-380-0028	Seeking advice re obtaining supplementary income.	Information Supplied
87-380-0029	Seeking information re possible financial assistance for parents.	Information Supplied
87-380-0030	Alleges unfair taxation of legal bill.	Information Supplied
87-380-0031	Objects to government policy re giving of grants.	Information Supplied
87-380-0032	Problem involving father's estate.	Declined
87-380-0033	Employee feels his employer collected personal and confidential information about him.	Declined
87-380-0034	Alleges residential facility for the physically handicapped not providing proper care.	Assistance Rendered
87-380-0035	Farm drainage problem.	Declined
87-380-0036	Tenant being evicted from apartment seeking help.	Information Supplied
87-380-0037	Expressing concern over infant deaths recently reported in media.	Information Supplied
87-380-0038	Denial of claim by insurance company.	Pending
87-380-0039	Objects to school establishing a parking lot next to his property.	Information Supplied
87-380-0040	Questioning policy of Registered Psychiatric Nurses Association re examination writing.	Declined
87-380-0041	Concerned about government's policy of giving employment training grants to libraries.	Information Supplied
87-380-0042	Difficulties resulting from purchase of used vehicle.	Information Supplied
87-380-0043	Landlord/tenant problem.	Information Supplied
87-380-0044	Problem involving compensation board of another province.	Assistance Rendered
87-380-0045	Seeking assistance re verification of translation of resume.	Assistance Rendered
87-380-0046	Seeking information re medical matter.	Assistance Rendered
87-380-0047	Husband trying to locate missing wife.	Declined
87-380-0048	Dissatisfied with treatment received from physician.	Information Supplied
87-380-0049	Concerned over delay in Law Society of Manitoba following complaint.	Declined
87-380-0050	Complaint against doctors.	Declined
87-380-0051	Insurance claim denied by private insurance company.	Information Supplied
87-380-0052	Feels that name of tradesman should be removed from private company's referral list of professional tradesmen.	Assistance Rendered
87-380-0053	Requests assistance in creating non-smoking floors in senior citizens' apartment.	Information Supplied
87-380-0054	Concerned over level of care in senior citizen home.	Pending
87-380-0055	Concerned over dealings with company.	Information Supplied
87-380-0056	Concerned over dealings with collection agency.	Information Supplied

87-380-0057	Alleges discrimination in the field of art and having work published.	Information Supplied
87-380-0058	Alleges single motor vehicle accident caused by faulty equipment in truck.	Information Supplied
87-380-0059	Questioning whether homestead rights or lands can be lost or sold outside the family.	Pending
87-380-0060	Received complaints from neighbours re operation of amateur radio out of their home and presence of antenna on property.	Information Supplied
87-380-0061	Complaining that landlord is making false reports to police about him.	Information Supplied
87-380-0062	Seeking information re variance of maintenance order.	Information Supplied
87-380-0063	Concern re hospital staff and patient being allowed to choose his own physician.	Discontinued (Client)
87-380-0064	Alleges unfair treatment and lay-off by employer.	Assistance Rendered
87-380-0065	Questions about obtaining assistance for violent, aggressive individual.	Information Supplied
87-380-0066	Feels school board misrepresented policy re: pupil transportation services.	Information Supplied
87-380-0067	Concern involving financial institutions.	Discontinued (Client)
87-380-0068	Tenant alleging he has not received proper notice to vacate premises.	Resolved
87-380-0069	Tenant complaining about conduct of another tenant in same apartment complex.	Information Supplied
87-380-0070	Concerned over possible misrepresentation by auto dealer.	Assistance Rendered
87-380-0071	Inmate expressing concern over sentence, lawyer, and police.	Information Supplied
87-380-0072	Expressing dissatisfaction with law firm.	Information Supplied

Workers Compensation Board — 32

87-410-0001	Alleging Board removed information from claim file.	Not Supported
87-410-0002	Denial of compensation claim.	Pending
87-410-0003	Alleged unfair denial of claim by Workers Compensation Board.	Assistance Rendered
87-410-0004	Alleged that he was unfairly denied full compensation.	Pending
87-410-0005	Alleges unfair denial of claim.	Discontinued (Client)
87-410-0006	Alleged that his benefits were unfairly terminated.	Discontinued (Client)
87-410-0007	Alleges Board's decision is not consistent with medical reports.	Not Supported
87-410-0008	Alleges breach of trust and confidentiality.	Pending
87-410-0009	Disputes Board's decision re hearing loss claim.	Pending
87-410-0010	Seeking compensation for knee injury.	Information Supplied
87-410-0011	Does not agree with termination of benefits.	Not Supported
87-410-0012	Disagrees with reduction in compensation benefits.	Pending

87-410-0013	Objects to reduction of supplementary benefit award.	Resolved
87-410-0014	Objecting to classification given for assessment purposes.	Information Supplied
87-410-0015	Alleges inconsistency in the calculation of benefits.	Pending
87-410-0016	Seeking clarification re status of Workers Compensation Board claim.	Discontinued (Ombudsman)
87-410-0017	Board refuses to accept new application for benefits without original claim number which has been lost.	Discontinued (Client)
87-410-0018	Feels Board made unfair decision re claim.	Pending
87-410-0019	Alleges that the Board is coercing doctors to submit selective reports.	Discontinued (Client)
87-410-0020	Alleges unfair denial of benefits.	Pending
87-410-0021	Feels undue delay in appeal being heard by Board.	Pending
87-410-0022	Disputes Board's termination of claim.	Information Supplied
87-410-0023	Alleges unfair termination of Workers Compensation benefits.	Information Supplied
87-410-0024	Alleges unfair treatment by Board re reduction of benefits and garnishing of wages.	Pending
87-410-0025	Feels unfairly treated re amount allowed for purchase of canes.	Not Supported
87-410-0026	Alleges unfair denial of medical review panel.	Information Supplied
87-410-0027	Seeking lump sum settlement instead of monthly disability pension.	Not Supported
87-410-0028	Alleges unfair termination of compensation benefits.	Pending
87-410-0029	Expressing concern that claim has not yet been accepted.	Information Supplied
87-410-0030	Seeking assistance to find out status of claim.	Pending
87-410-0031	Feels amount of compensation is inadequate	Information Supplied
87-410-0032	Alleged delay in processing a compensation cheque by the Workers Compensation Board.	Resolved

The Ombudsman Act

CHAPTER O45

THE OMBUDSMAN ACT.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Definitions.

1 In this Act

(a) "agency of the government" means any board, commission, association, or other body of persons, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board of directors of which,

  (i) are appointed by an Act of the Legislature or by order of the Lieutenant Governor in Council, or

  (ii) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

(b) "department" means a department or branch of the executive government of the province;

(c) "minister" means a member of the Executive Council.

En. S.M., 1969, (2nd Sess.), c. 26, s. 1.

Appointment of Ombudsman.

2(1) The Lieutenant Governor in Council shall, on the recommendation of the Standing Committee of the Assembly on Privileges and Elections, appoint a Canadian citizen as Ombudsman for the Province of Manitoba.

Am. S.M. 1982, c. 51, s. 21.

Recommendations of committee on privileges and elections.

2(2) Where

(a) the office of Ombudsman is vacant; or

(b) the term of the Ombudsman in office will expire within 12 months; or

(c) the Ombudsman has tendered his resignation to take effect within 12 months;

the President of the Executive Council shall convene a meeting of the Standing Committee of the Assembly on privileges and elections which shall consider persons suitable and available to be appointed as Ombudsman and shall make recommendations in respect thereto to the President of the Executive Council.

En. S.M. 1980, c. 22, s. 1.

Meeting of Standing Committee.

2(3) The Standing Committee of the Assembly on Privileges and Elections may, for the purposes of performing its functions under this section, meet during session of the Legislature or during recess after prorogation.

Am. S.M. 1982, c. 51, s. 21.
En. S.M. 1969, (2nd Sess.), c. 26, s. 2.
Am. S.M. 1980, c. 22, s. 1; S.M. 1982, c. 51, s. 21.

Officer of Legislature.

3(1) The Ombudsman is an officer of the Legislature and is not eligible to be nominated for, elected as, or sit as, a member of the assembly.

Restrictions on employment.

3(2) The Ombudsman shall not hold any other public office or carry on any trade, business, or profession.

En. S.M., 1969, (2nd Sess.), c. 26, s. 3.

Term of office.

4(1) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for six years from the date of his appointment, and a person may be re-appointed for a second term of six years, but not for more than two terms of six years.

Resignation.

4(2) The Ombudsman may resign his office in writing addressed to the Speaker of the assembly, or, if there is no Speaker or the Speaker is absent, to the clerk of the assembly.

Ombudsman over 65.

4(3) Where the Ombudsman reaches 65 years of age during his term of office, notwithstanding section 54 of The Civil Service Superannuation Act, he is not required to retire from the office but he shall, for the purposes of that Act, be deemed to have retired and been re-employed by the government for the balance of his unexpired term of office and may apply for and be granted a deferred allowance under section 27 of that Act.

En. S.M. 1980, c. 22, s. 2.
En. S.M. 1969, (2nd Sess.), c. 26, s. 4.
Am. S.M. 1980, c. 22, s. 2.

Removal or suspension.

5 The Lieutenant Governor in Council, on a resolution of the assembly carried by a vote of two-thirds of the members of the assembly voting thereon, may remove the Ombudsman from office or suspend him.

En. S.M., 1969, (2nd Sess.), c. 26, s. 5.

Suspension when Legislature not sitting.

6(1) At any time the Legislature is not in session, the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue in force beyond the end of the next ensuing session of the Legislature.

Acting Ombudsman.

6(2) Where the office of the Ombudsman is vacant, or the Ombudsman is suspended under subsection (1), the Lieutenant Governor in Council shall appoint an acting Ombudsman to hold office until another Ombudsman is appointed under section 2 or the suspension has been dealt with in the assembly.

En. S.M., 1969, (2nd Sess.), c. 26, s. 6.

Salary.

7(1) The Ombudsman shall be paid a salary fixed by the Lieutenant Governor in Council, which shall be charged to and paid out of the Consolidated Fund.

Reduction of salary.

7(2) The salary of the Ombudsman shall not be reduced except on resolution of the assembly carried by a vote of two-thirds of the members of the assembly voting thereon.

En. S.M., 1969, (2nd Sess.), c. 26, s. 7.

Expenses.

8 The Ombudsman shall be paid such travelling and out of pocket expenses incurred by him in the performance of his duties as may be approved by the Provincial Auditor.

En. S.M., 1969, (2nd Sess.), c. 26, s. 8.

Application of Civil Service Superannuation Act.

9(1) The Ombudsman, and all persons employed under him, are employees within the meaning of The Civil Service Superannuation Act.

Application of Civil Service Act.

9(2) The Ombudsman is not subject to The Civil Service Act except section 44 thereof which applies to him but he is entitled to the privileges and perquisites of office, including holidays, vacations, sick leave and severance pay, of a member of the civil service who is not covered by a collective agreement.

En. S.M. 1980, c. 22, s. 3.

Employees under Ombudsman.

9(3) The Civil Service Act applies to persons employed under the Ombudsman.

En. S.M. 1969, (2nd Sess.), c. 26, s. 9.
Am. S.M. 1980, c. 22, s. 3.

Oath of office.

10 Before beginning to perform his duties, the Ombudsman shall take an oath before the Speaker of the Assembly or the Clerk of the Assembly that he will faithfully and impartially perform the duties of his office and that he will not, except as herein provided, divulge any information received by him under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 10.

Oath of staff.

11 Every person employed under the Ombudsman shall, before he begins to perform the duties, take an oath before the Ombudsman that he will not, except as herein provided, divulge any information received by him under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 11.

Secrecy.

12(1) The Ombudsman and every person employed under him shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their duties or functions under this Act.

Disclosure in reports.

12(2) Notwithstanding subsection (1) or any oath taken under this Act, the Ombudsman may disclose in a report made by him under this Act any matters which he considers necessary to disclose in order to establish grounds for his conclusions and recommendations.

En. S.M., 1969, (2nd Sess.), c. 26, s. 12.

Powers under Part V of Evidence Act.

13 The Ombudsman has the protection and powers of a commissioner appointed under Part V of The Manitoba Evidence Act; but section 87 of The Manitoba Evidence Act does not apply to the Ombudsman and no notice of appointment, of the purpose and scope of inquiries to be made by the Ombudsman, or of the time and place of the holding of any hearing or inquiry by the Ombudsman, need be published as required under section 88 of The Manitoba Evidence Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 13.

Delegation.

14(1) The Ombudsman may in writing delegate to any person any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

Evidence of delegation.

14(2) A person purporting to exercise the power of the Ombudsman by virtue of the delegation under subsection (1) shall produce evidence of his authority to exercise that power when required to do so.

En. S.M., 1969, (2nd Sess.), c. 26, s. 14.

Investigations.

15 The Ombudsman may, on a written complaint or on his own initiative, investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration in or by any department or agency of the government, or by any officer, employee or member thereof, whereby any person is or may be aggrieved.

En. S.M., 1969, (2nd Sess.), c. 26, s. 15.

Reference by committees of assembly.

16(1) A committee of the assembly may at any time refer to the Ombudsman, for investigation and report by him, any petition or matter that is before that committee for consideration; and the Ombudsman shall

(a) subject to any special directions of the committee, investigate the petition or matter referred to him so far as it is within his jurisdiction; and
(b) make such report to the committee as he thinks fit.

Reference by Lieutenant Governor in Council.

16(2) The Lieutenant Governor in Council may at any time refer to the Ombudsman, for investigation and report by him, any matter relating to administration in or by any department or agency of the government, or by any officer, employee or member thereof; and the Ombudsman shall,

(a) subject to any special direction of the Lieutenant Governor in Council, investigate the matter referred to him so far as it is within his jurisdiction; and
(b) make such report to the Lieutenant Governor in Council as he thinks fit.

En. S.M., 1969, (2nd Sess.), c. 26, s. 16.

Exercise of powers, etc.

17 The Ombudsman may exercise and perform the powers, duties and functions conferred or imposed on him under this Act notwithstanding any provision of any other Act of the Legislature

(a) that any decision, recommendation, act or omission that he is investigating is final; or
(b) that no appeal lies in respect thereof; or
(c) that no proceeding or decision of the department, agency of the government, officer, employee, or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

En. S.M., 1969, (2nd Sess.), c. 26, s. 17.

Restriction on jurisdiction.

18 Nothing in this Act authorizes the Ombudsman to investigate

(a) any decision, recommendation, act, order or omission of the Legislature, the assembly, the Lieutenant Governor, a committee of the assembly, the Lieutenant Governor in Council, the Executive Council, or a committee of the Executive Council; or

(b) any order, decision or omission of a court, a judge of a court, a referee or master of a court, a magistrate or a justice of the peace made or given in any action or proceeding in the court, or before the judge, referee, master, magistrate or justice of the peace; or

(c) any award, decision, recommendation or omission of an arbitrator or board of arbitrators in an arbitration to which The Arbitration Act applies; or

(d) any decision, recommendation, act or omission in respect of which there is, under any Act a right of appeal or objection or a right to apply for a review on the merits of the case to any court or tribunal constituted by or under an Act of the Legislature, whether or not that right of appeal, objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired, unless the Ombudsman is satisfied that in the particular case it would have been unreasonable to expect the complainant to resort to the tribunal or court, but in that case investigation shall not commence until after the time prescribed for the exercise of that right to appeal, object or apply, has expired.

En. S.M., 1969, (2nd Sess.), c. 26, s. 18.

Restriction on investigation by minister.

19(1) Where the Attorney-General certifies in writing to the Ombudsman that the investigation of a matter would be contrary to the public interest under the circumstances, the Ombudsman shall not investigate that matter, or, if he has commenced an investigation of that matter, he shall discontinue the investigation.

Report of certificate.

19(2) Where a certificate is given under subsection (1), the Ombudsman shall include that fact and a brief description of the circumstances of the matter in his next annual report to the assembly.

En. S.M., 1969, (2nd Sess.), c. 26, s. 19.

Questions relating to jurisdiction.

20 Where a question arises as to the jurisdiction of the Ombudsman to investigate any case or class of cases under this Act, he may apply to the Court of Queen's Bench for a declaratory order determining the question.

En. S.M., 1969, (2nd Sess.), c. 26, s. 20.

Complaints in writing.

21 Every complaint to the Ombudsman shall be made in writing.

En. S.M., 1969, (2nd Sess.), c. 26, s. 21.

Privacy of communication to Ombudsman.

22 Notwithstanding any Act, where a letter written by a person in custody on a charge or after conviction for an offence, or by an inmate in any hospital, mental hospital, home or institution operated by or under the direction of the government, or by any person in custody of another person for any other reason, is addressed to the

Ombudsman, it shall be forwarded immediately, unopened, to the Ombudsman by the person for the time being in charge of the place or institution where the writer of the letter is detained or in which he is an inmate, or by the person having custody of the writer.

En. S.M., 1969, (2nd Sess.), c. 26, s. 22.

Refusal to investigate.

23(1) The Ombudsman, in his discretion, may refuse to investigate or may cease to investigate a complaint if

(a) it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than one year before the complaint is received by the Ombudsman; or

(b) in his opinion it is frivolous or vexatious or not made in good faith or concerns a trivial matter; or

(c) in his opinion, upon a balance between the public interest and the person aggrieved, it should not be investigated or the investigation should not be continued; or

(d) in his opinion the circumstances of the case do not require investigation.

Limitation on review of discretionary powers.

23(2) Where, in the course of or after an investigation of any decision, act or omission, done or omitted by a department or agency of the government, or any officer or employee thereof in the exercise of a discretion vested in that department, agency, officer, or employee, the Ombudsman is satisfied that the decision, act or omission is not clearly wrong or unreasonable, the Ombudsman shall make no further investigation of the matter and shall report to the complainant that he is so satisfied.

En. S.M., 1969, (2nd Sess.), c. 26, s. 23.

Report of refusal to investigate.

24 Where the Ombudsman decides not to investigate or to cease investigating a complaint he shall inform the complainant, and any other interested person, of his decision.

En. S.M., 1969, (2nd Sess.), c. 26, s. 24.

Notice of investigation.

25 Before investigating a complaint, the Ombudsman shall inform the deputy minister or the administrative head of the department or agency of the government affected of his intention to make the investigation.

En. S.M., 1969, (2nd Sess.), c. 26, s. 25.

Private investigations.

26 Every investigation by the Ombudsman under this Act shall be conducted in private.

En. S.M., 1969, (2nd Sess.), c. 26, s. 26.

Hearings.

27 The Ombudsman may hold hearings and hear or obtain information from any person and make inquiries as he thinks fit.

En. S.M., 1969, (2nd Sess.), c. 26, s. 27.

Right to be heard.

28 The Ombudsman is not required to hold a hearing and no person is entitled, as of right, to be heard by the Ombudsman; but, if at any time it appears to the Ombudsman that there is sufficient grounds for his making a report or recommendation in respect of any matter that may adversely affect any department, agency of the government, or person, he shall give to that department, agency, or person, an opportunity to make representations in respect of the matter, and the department, agency, or person may make representations in respect of the matter by counsel.

En. S.M., 1969, (2nd Sess.), c. 26, s. 28.

Consultation with minister.

29(1) The Ombudsman may, at any time during or after an investigation, consult any minister who is concerned in the matter of the investigation.

Reference to deputy minister.

29(2) Where, during or after an investigation, the Ombudsman is of the opinion that there is evidence of a breach of duty or misconduct by a department or agency of the government or any officer or employee thereof, he shall refer the matter to the deputy minister or administrative head of the department or agency of the government.

En. S.M., 1969, (2nd Sess.), c. 26, s. 29.

Evidence.

30(1) Subject to section 31, the Ombudsman may require any person who, in his opinion, is able to give any information relating to any matter being investigated by him

(a) to furnish the information to him; and

(b) to produce any document, paper or thing that in his opinion relates to the matter being investigated and that may be in the possession or under the control of that person;

whether or not that person is an officer, employee or member of the department or agency of the government and whether or not the document, paper or thing is in the custody or under the control of a department or agency of the government.

Examination on oath.

30(2) The Ombudsman may summon before him and examine on oath

(a) any person who is an officer or employee or member of any department or agency of the government and who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

(b) any complainant; and

(c) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him.

En. S.M., 1969, (2nd Sess.), c. 26, s. 30.

Restrictions on disclosures.

31 Where the Attorney-General certifies that the giving of any information or the answering of any question or the production of any document, paper or thing might involve the disclosure of

(a) the deliberations of the Lieutenant Governor in Council, the Executive Council, or any committee thereof; or

(b) proceedings of the Lieutenant Governor in Council, the Executive Council, or any committee thereof; or

(c) matters of a secret or confidential nature, or the disclosure of which would be injurious to the public interest;

the Ombudsman shall not require the information or answer to be given or the document, paper or thing to be produced, but shall report the giving of the certificate and the matter in respect of which it was given in his next annual report to the assembly.

En. S.M., 1969, (2nd Sess.), c. 26, s. 31.

Application of certain rules.

32(1) Subject to section 31, a rule of law that authorizes or requires the withholding of any document, paper or thing, or the refusal to answer any question, on the ground that the disclosure or answering would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman.

Provisions relating to secrecy.

32(2) Subject to section 31, no provision of any Act of the Legislature requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall apply in respect of an investigation by the Ombudsman; and no person required by the Ombudsman to furnish information or to produce any document, paper or thing or summoned by the Ombudsman to give evidence, shall refuse to furnish the information, produce the document, paper or thing, or to answer questions on the ground of any such provision.

Am. S.M. 1979, c. 28, s. 28.
En. S.M. 1969, (2nd Sess.), c. 26, s. 32.
Am. S.M. 1979, c. 28, s. 28.

Admissibility of evidence.

33 Except on the trial of a person for perjury, no statement made, or answer or evidence given by that or any other person in the course of an investigation by or any proceedings before the Ombudsman is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence respecting proceedings before the Ombudsman shall be given against any person.

En. S.M., 1969, (2nd Sess.), c. 26, s. 33.

Defence for certain offences.

34 No person is guilty of an offence against any other Act of the Legislature by reason of his compliance with any request or requirement of the Ombudsman to furnish information or produce any document, paper or thing, or by reason of answering any question in any investigation of the Ombudsman.

En. S.M., 1969, (2nd Sess.), c. 26, s. 34.

Right of entry.

35(1) For the purposes of this Act, the Ombudsman may at any time enter upon the premises occupied by any department or agency of the government and, subject to section 31, carry out therein any investigation within his jurisdiction.

Notice of entry.

35(2) Upon entering any premises under subsection (1), the Ombudsman shall notify the deputy minister or administrative head of the department or agency of the government that occupies the premises.

En. S.M., 1969, (2nd Sess.), c. 26, s. 35.

Report on investigation.

36(1) Where, after making an investigation under this Act, the Ombudsman is of opinion

- (a) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been
  - (i) contrary to law, or
  - (ii) unreasonable, or
  - (iii) unjust, or
  - (iv) oppressive, or
  - (v) improperly discriminatory, or
  - (vi) in accordance with a practice or procedure that is or may be unreasonable, unjust, oppressive, or improperly discriminatory, or
  - (vii) based wholly or partly on a mistake of law or fact, or
  - (viii) wrong; or
- (b) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised
  - (i) for an improper purpose, or
  - (ii) on irrelevant grounds, or
  - (iii) on the taking into account of irrelevant considerations; or
- (c) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation;

the Ombudsman shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency of the government concerned, and may make such recommendations as he thinks fit.

Nature of recommendations.

36(2) Without limiting the generality of subsection (1), in making a report under subsection (1), the Ombudsman may recommend

- (a) that a matter should be referred to the appropriate authority for further consideration; or
- (b) that an omission should be rectified; or
- (c) that a decision should be cancelled or varied; or
- (d) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed; or
- (e) that any law on which a decision, recommendation, act or omission was based should be reconsidered; or
- (f) that reasons should be given for any decision, recommendation, act or omission; or
- (g) that any other steps should be taken.

En. S.M., 1969, (2nd Sess.), c. 26, s. 36.

Notice of proposed steps.

37(1) Where the Ombudsman makes a recommendation under section 36, he may request the department or agency of the government to notify him within a specified time of the steps that it has taken or proposes to take to give effect to his recommendations.

Further report on recommendations.

37(2) If within a reasonable time after a request respecting recommendations is made under this section, no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion, after considering the comments, if any, made by or on behalf of the department or agency of the government affected, may report the matter, including a copy of the report containing the recommendations, to the Lieutenant Governor in Council, and may thereafter mention the report in his next annual report to the assembly.

Comments included in report.

37(3) Any report made under subsection (2) shall include any comments made by or on behalf of the department or agency of the government upon the opinion or recommendation of the Ombudsman.

En. S.M., 1969, (2nd Sess.), c. 26, s. 37.

Report to complainant.

38 Where the Ombudsman makes an investigation on the basis of a complaint received by him, he shall report to the complainant, in such manner and at such time as he thinks proper, the result of the investigation.

En. S.M., 1969, (2nd Sess.), c. 26, s. 38.

Review of Ombudsman's decision.

39 No proceeding of the Ombudsman is void for want of form and, except on the ground of lack of jurisdiction, no proceedings or decisions of the Ombudsman shall be challenged, reviewed, quashed or called in question in any court.

En. S.M., 1969, (2nd Sess.), c. 26, s. 39.

Proceedings against Ombudsman prohibited.

40 No proceedings lie against the Ombudsman or against any person employed under him for anything he may do or report or say in the course of the exercise or performance, or intended exercise or performance of his functions and duties under this Act, unless it is shown he acted in bad faith.

En. S.M., 1969, (2nd Sess.), c. 26, s. 40.

Ombudsman not to be called as witness.

41 The Ombudsman and any person employed under him shall not be called to give evidence in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise or performance of his functions and duties under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 41.

Annual report to Legislature.

42 The Ombudsman shall report annually to the assembly through the Speaker on the exercise and performance of his functions and duties under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 42.

Publication of reports.

43 In the public interest, or in the interest of a person, department or agency of the government, the Ombudsman may publish reports relating generally to the exercise and performance of his functions and duties under this Act or to any particular case investigated by him, whether or not the matters to be dealt with in the report have been the subject of the report made to the assembly under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 43.

Rules.

44(1) The assembly may make general rules for the guidance of the Ombudsman in the exercise and performance of his functions and duties under this Act.

Procedure of Ombudsman.

44(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure.

En. S.M., 1969, (2nd Sess.), c. 26, s. 44.

Offence and penalty.

45 Every person who

(a) without lawful justification or excuse wilfully obstructs, hinders, or resists the Ombudsman or any other person in the exercise or performance of his functions and duties under this Act; or

(b) without lawful justification or excuse refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or

(c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise or performance of his functions and duties under this Act;

is guilty of an offence and liable, on summary conviction, to a fine of not more than five hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

En. S.M., 1969, (2nd Sess.), c. 26, s. 45.

Additional remedies.

46 The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure.

En. S.M., 1969, (2nd Sess.), c. 26, s. 46.

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